

# Zoning Ordinance

CITY OF HARPER WOODS, MI

---

Adopted:

June 9, 2025

Prepared with the assistance of



**MCKENNA**

235 East Main Street, Suite 105  
Northville, MI 48176

**MCKA.com**







# Table of Contents

SUMMARY TABLE OF AMENDMENTS .....	iii
<b>Article 1. Purpose, Intent, and Validity .....</b>	<b>1</b>
Section 1.01 Purpose .....	1
Section 1.02 Short Title .....	1
Section 1.03 Construction of Language .....	1
Section 1.04 General Authority .....	2
Section 1.05 Conflicting Regulations.....	2
Section 1.06 Scope .....	3
<b>Article 2. Definitions .....</b>	<b>4</b>
<b>Article 3. Districts and Uses .....</b>	<b>35</b>
Section 3.01 Zoning Districts and Overlays .....	35
Section 3.02 Zoning Map .....	36
Section 3.03 Interpretation of District Boundaries .....	37
Section 3.04 Zoning of Vacated Areas.....	37
Section 3.05 Zoning of Street and Alley Rights-of-Way (ROW).....	37
Section 3.06 Application of This Ordinance .....	37
Section 3.07 Determination of Land Uses Not Listed in This Ordinance .....	37
Section 3.08 Table of Land Uses by Zoning District .....	38
Section 3.09 R-1 Low-Density Residential District.....	42
Section 3.10 R-2 Moderate-Density Residential District .....	44
Section 3.11 R-3 Medium-Density Residential District.....	46
Section 3.12 MU-1 Moderate-Density Mixed Use District.....	48
Section 3.13 MU-2 Medium-Density Mixed Use District .....	49
Section 3.14 C-R Regional Commercial District .....	51
Section 3.15 HB Height Bonus Overlay District .....	52

<b>Article 4.</b>	<b>General Standards .....</b>	<b>54</b>
Section 4.01	Permitted Area .....	54
Section 4.02	Permitted Height.....	54
Section 4.03	Construction Begun Prior to Adoption of Chapter .....	54
Section 4.04	Buildings to be Moved .....	55
Section 4.05	Approval of Plats .....	55
Section 4.06	General Lot Development Provisions.....	55
Section 4.07	Lots, Yards and Open Spaces .....	55
Section 4.08	Street Access .....	55
Section 4.09	Moratoria .....	55
Section 4.10	Clear Vision Area .....	56
Section 4.11	Access Management.....	57
Section 4.12	Traffic Impact Studies.....	57
Section 4.13	Fences.....	58
Section 4.14	Manufactured Homes.....	59
Section 4.15	Projections into Yards .....	59
<b>Article 5.</b>	<b>Site Development Standards .....</b>	<b>61</b>
Section 5.01	Schedule of Dimensional Regulations .....	61
Section 5.02	Accessory Uses, Buildings, and Structures .....	62
Section 5.03	Architectural Standards.....	64
Section 5.04	Parking .....	66
Section 5.05	Landscaping .....	75
Section 5.06	Lighting.....	80
Section 5.07	Signs.....	83
<b>Article 6.</b>	<b>Use Standards.....</b>	<b>84</b>
Section 6.01	Accessory Dwelling Units (ADU).....	84
Section 6.02	Adult-Oriented Uses .....	85
Section 6.03	Bed and Breakfast Establishments.....	86
Section 6.04	Child Care Facilities .....	87
Section 6.05	Cigar Lounges, Smoking Lounges and Smoke Shops .....	87
Section 6.06	Convenience Stores .....	88
Section 6.07	Drive-Through Facilities .....	89
Section 6.08	Event Hall or Banquet Hall .....	89
Section 6.09	Foster Care Facilities .....	90
Section 6.10	Funeral Homes and Mortuaries.....	91
Section 6.11	Ghost Kitchens .....	91
Section 6.12	Home Occupations.....	92
Section 6.13	Hospitals.....	93
Section 6.14	Kennels.....	93
Section 6.15	Marijuana Establishments .....	94
Section 6.16	Motels and Hotels.....	96

Section 6.17	Multiple-Unit Dwelling Units: General.....	96
Section 6.18	Multiple-Unit Dwellings: Duplex and Triplex in R-1 Zones .....	97
Section 6.19	Multiple-Unit Dwellings: Townhouses .....	97
Section 6.20	Multiple-Unit Dwellings: Cottage Courts.....	98
Section 6.21	Multiple-Unit Dwellings: Housing for older adults.....	99
Section 6.22	Nursing and Convalescent Care Facilities .....	101
Section 6.23	Open-Air Businesses.....	101
Section 6.24	Places of Worship .....	102
Section 6.25	Planned Unit Developments (PUD).....	103
Section 6.26	Self-Storage Facilities .....	108
Section 6.27	Single-Unit Cluster Housing Option (CHO).....	109
Section 6.28	Temporary Uses .....	112
Section 6.29	Vehicle Fueling Station.....	114
Section 6.30	Vehicle Sales Establishments .....	114
Section 6.31	Vehicle Service Facility, Major .....	115
Section 6.32	Vehicle Service Facility, Minor .....	116
Section 6.33	Vehicle Wash Facility (i.e. car washes).....	116
Section 6.34	Veterinary Clinic/Office.....	118
<b>Article 7.</b>	<b>Nonconformities .....</b>	<b>119</b>
Section 7.01	Intent.....	119
Section 7.02	General Requirements .....	119
Section 7.03	Nonconforming Lots .....	121
Section 7.04	Nonconforming Structures.....	122
Section 7.05	Nonconforming Uses.....	123
<b>Article 8.</b>	<b>Administration and Enforcement.....</b>	<b>125</b>
Section 8.01	Administration and Permits .....	125
Section 8.02	Plan Review for Uses and Structures. ....	129
Section 8.03	Special Land Use .....	136
Section 8.04	Public Hearing .....	139
Section 8.05	Amendments/Rezoning .....	141
Section 8.06	Amendments Required to Conform to Court Decree .....	142
Section 8.07	Criteria for Amendment of the Official Zoning Map.....	142
Section 8.08	Criteria for Amendment to the Zoning Ordinance Text .....	143
Section 8.09	Restrictions on Resubmittal of a Rezoning Request.....	143
Section 8.10	Conditional Rezoning .....	143
Section 8.11	Zoning Board of Appeals.....	147
Section 8.12	Performance Guarantees .....	150
Section 8.13	Enforcement .....	151
Section 8.14	Interpretation, Purpose and Conflict.....	151
Section 8.15	Violations and Penalties .....	151
Section 8.16	Validity .....	151
Section 8.17	Effective Date .....	152



## Article 1.

# Purpose, Intent, and Validity

### Section 1.01 Purpose

The purpose of this ordinance is to provide for the orderly development of the city, consistent with the City's Master Plan, which is essential to the well-being of the City. The City further desires to meet the needs of the City's residents for food, fiber, energy and other natural resources, places of residence, recreation, industry, trade, service, and other use of land; to ensure that uses of the land shall be situated in appropriate locations and relationships; to ensure that new development contributes to high-quality urban design regarding building form and aesthetics; to provide for residential alternatives for existing and new residents of the City; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare, and for those purposes may divide the City into districts of the number, shape, and area considered best suited to carry out this section. For each of those districts regulations may be imposed designating the uses for which buildings or structures shall or shall not be erected or altered, and designating the trades, industries, and other land uses or activities that shall be permitted or excluded or subjected to special regulations.

### Section 1.02 Short Title

This Chapter shall be known and may be cited as the Zoning Ordinance of the City of Harper Woods.

### Section 1.03 Construction of Language

The following rules of construction apply to the text of these Zoning Regulations:

- A. The particular shall control the general.
- B. Words used in the present tense shall include the future.

- C. Words used in the singular number shall include the plural, and the plural shall include the singular, unless the context clearly indicates the contrary.
- D. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- E. The masculine gender includes the feminine and neuter.
- F. All measurements shall be to the nearest integer, unless otherwise specified herein.
- G. The phrase "used for" includes "arranged for", "designed for", "intended for", "occupied for", and "maintained for".
- H. The word "building" includes the word "structure". The word "structure" includes "building". The word "build" includes the words "erect" and "construct". A "building" or "structure" includes any part thereof.
- I. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any similar entity.
- J. Whenever a word or term defined hereinafter appears in the text of the Zoning Regulations, its meaning shall be construed as defined herein. Words or terms not herein defined shall have the meaning customarily assigned to them.
- K. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either/or", the conjunction shall be interpreted as follows:
  - 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - 2. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
  - 3. "Either/or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- L. Catch words and catch lines shall in no way by their presence or absence limit or affect the meaning of these Zoning Regulations.
- M. Unless the context clearly indicates to the contrary, where an illustration accompanies any item within these Zoning Regulations, the written text shall have precedence over said illustrations.

## Section 1.04 General Authority

Except as hereinafter specifically provided, the general provisions of this Article shall apply:

## Section 1.05 Conflicting Regulations

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

## Section 1.06 Scope

No building or structure, or part thereof, shall hereafter be erected, constructed, reconstructed, or altered and maintained, and no new use or change shall be established, made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this Chapter.



## Article 2.

# Definitions

**Abut.** Having a common border with or being separated from such a common border by a right-of way, alley, or easement.

**Access management (access control).** A technique to improve traffic operations along a major roadway and decrease the potential for accidents through the control of driveway locations and design; consideration of the relationship of traffic activity for properties adjacent to, and across from, one another; and the promotion of alternatives to direct access.

**Accessory use.** A land use which is clearly incidental to, customarily found in connection with, subordinate to, and is located on the same zoning lot as the principal use to which it is exclusively related.

**Accessory building or structure.** A building, or structure which is clearly incidental to, customarily found in connection with, subordinate to, and is located on the same zoning lot as the principal use to which it is exclusively related.

**Adult-oriented use.** Any establishment which primarily features suggestive or sexually explicit activities, and/or displays of specified anatomical areas. Businesses and uses characterized as adult-oriented uses include the following:

- 1) **Adult bookstore.** An establishment having fifteen (15) percent or more of its stock in trade, books, video tapes, magazines, and other periodicals and/or photographs, drawings, slides, films, recording tapes, and novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein this section), or an establishment with a segment or section devoted to the sale or display of such material which exceeds 15 percent of the gross floor area of the establishment.
- 2) **Adult business.** An adult bookstore, adult cabaret, adult live stage performing theater, adult motion picture arcade or miniature-motion picture theater, adult motion picture theater, adult novelty business, adult personal service business, adult video store, massage parlor, or nude modeling studio as defined in this section.
- 3) **Adult cabaret.** An establishment having as an activity the presentation or display of male or female impersonator, dancer, entertainer, waiter, or employee, who display specified anatomical areas as defined herein, and which may or may not feature the service of food or beverage.

- a) **Group "A" cabaret.** An establishment which features entertainers, performers, waitstaff, or similar employees that are distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" (as defined herein this section), or an establishment which features live entertainment distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" (as defined herein this section) for observation by patrons therein.
- b) **Group "D" cabaret.** An establishment licensed by the Michigan Liquor Control Commission, which establishment offers beer or intoxicating liquor for consumption on the premises and features entertainers, performers, or waitstaff distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" (as defined herein this section).
- 4) **Adult motion picture theater or adult live stage performing theater.** An enclosed building or room used for presenting motion picture films, video cassettes, cable television or any other visual media, or performance having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activity" or "Specified Anatomical Areas", as defined herein, for observation by patrons therein. Such an establishment is customarily open to the public, but only to one or more classes of the public, excluding any minor by reason of age.
- 5) **Adult motion picture arcade or miniature-motion picture theater.** Any place where motion picture machines, projectors, or other image producing devices are maintained to show images to 5 or fewer persons per machine at any one time, and where the images displayed depict, describe, or relate to "specified sexual activities" or "specified anatomical areas" (as defined herein this section).
- 6) **Adult novelty business.** An establishment in which fifteen (15) percent or more of its stock-in-trade devoted to the distribution, display, storage or sale of devices, instruments, or paraphernalia designed for uses related to "specified anatomical areas" or as part of, in connection with, or related to "specified sexual activities" (as defined herein this section), or an establishment with a segment or section devoted to the sale or display of such material.
- 7) **Adult personal service business.** A business having as its principal activity a person, while nude or while displaying "specified anatomical areas" as defined herein this section, providing personal services for another person. Such businesses include but are not limited to: modeling studios; body painting studios; wrestling studios; conversation parlors; theatrical performances or entertainment; establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, or steam baths; or any establishment, club, or business by whatever name designated, which offers or advertises, or is equipped or arranged to provide as part of its services, massages, body rubs, body painting, alcohol rubs, physical stimulation, baths, or other similar treatment by any person.

The following uses shall not be included within the definition of an adult personal service establishment:

- a) Establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed physical therapist, a licensed practical nurse practitioner, or any other similarly licensed or certified medical professionals;
- b) Gymnasiums, fitness centers and health clubs;
- c) Electrolysis treatment by a licensed operator of electrolysis equipment;
- d) Continuing instruction in martial or performing arts, or in organized athletic activities;
- e) Hospitals, nursing homes, medical clinics, or medical offices;

- f) Barber shops, beauty parlors, hair stylists, salons, and other establishments which offer massages by certified massage therapists; and
  - g) Adult photography studios whose principal business does not include the taking of photographs of "specified anatomical areas" as defined herein this section.
- 8) **Adult video store.** An establishment having fifteen (15) percent or more of its stock-in-trade devoted to the distribution, display, storage, or on-premises viewing of films, movies, motion pictures, video cassettes, slides, or other visual representations which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein this section), or an establishment with a segment or section devoted to the sale or display of such material.

**Adult day care facility.** A facility which provides daytime care for any part of a day but less than 24-hour care for elderly persons provided through a structured program of social, rehabilitative or maintenance services in a supportive group setting other than the client's home. Such facilities are not licensed, however those receiving funds through an Area Agency on Aging shall comply with adult day care standards promulgated by the Michigan Department of Health and Human Services, or superseding agency or agencies.

**Adult foster care facility.** A government or nongovernmental establishment that provides foster care including supervision, personal care, and protection in addition to room and board, to adults over 18 years of age for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation. This includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities which have been exempted from the definition of adult foster care facility by the Adult Foster Care Facility Licensing Act, MCL 400.701, et. seq., MSA 16.610 (61), et. seq., as amended, and rules promulgated by the State of Michigan.

The following additional definitions are provided:

- 1) **Adult foster care family home.** A private residence with the approved capacity to receive six (6) or fewer adults and is licensed to be provide foster care for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.
- 2) **Adult foster care small group home.** An adult foster care facility with the approved capacity to receive twelve (12) or fewer adults to be provided with foster care.
- 3) **Adult foster care large group home.** An adult foster care facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided with foster care.
- 4) **Adult foster care congregate facility.** An adult foster care facility with the approved capacity to receive more than twenty (20) adults to be provided with foster care.

**Alley.** A public way not more than thirty (30) feet in width and which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

**Alterations.** Any change in the location or use of a building, or any change or modification in the supporting members of a building, such as bearing walls, columns, beams, hoists, girders and similar components, or any substantial changes in the roof or exterior walls, or any change in the type of occupancy, the consummated act of which may also be referred to herein as "altered" or "reconstructed".

**Appeal.** An entreaty or demand for a hearing or review of facts and/or actions in connection with the public enforcement of this Ordinance.

**Applicant.** The property owner, or a person acting with the written and signed authorization of the property owner to make application for a permit, plan review, text or map amendment, or other such formal petition to the Planning Commission, Zoning Board of Appeals, or City Council.

**Architectural feature.** Any exterior element of a building which expresses or reflects the building's architectural style, including but not limited to: cornice, eave, gutter, belt course, sill, lintel, bay window, chimney and decorative ornament.

**Arterial street.** A street defined in the Master Plan as “major traffic routes” and/or as an arterial or major street by the Michigan Department of Transportation where the movement of through traffic is the primary function, with service to adjacent land uses a secondary function.

**Automobile.** Unless specifically indicated otherwise, “automobile” shall mean any motorized vehicle intended to be driven on roads or trails, such as cars, trucks, van and motorcycles. This definition shall also apply to vehicles with powertrains that are not purely powered by gasoline or diesel fuels, including but not limited to: battery-electric vehicles, plug-in hybrid electric vehicles, hybrid electric vehicles, hydrogen-powered vehicles, and biodiesel-powered vehicles.

**Banks, credit unions, and savings banks without drive through facilities.** A freestanding building, without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds.

**Bar and Tavern.** An establishment or part of an establishment devoted primarily to the selling, serving, or dispensing of alcoholic beverages for on-site consumption. The sale of prepared food or snacks may also be permitted.

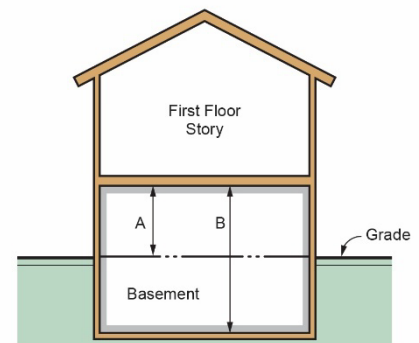
**Basement.** That portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the basement ceiling. A basement shall not be included as a story for height measurement. (See *diagram: “Basement”*)

**Bed and breakfast establishment.** Any dwelling in which overnight accommodations are provided or offered for transient guests for compensation, including provision for a morning meal only for the overnight guest. A bed and breakfast is distinguished from a motel in that a bed and breakfast establishment shall have only one set of kitchen facilities, employ only those living in the house or up to one (1) additional employee, and have a facade style consistent with the surrounding homes.

**Bedroom.** A room in a dwelling unit used for or intended to be used solely for sleeping purposes by human beings.

**Berm.** A continuous, raised earthen mound with a flattened top and sloped sides, capable of supporting live landscaping materials, and with a height and width that complies with the requirements of this Chapter.

**Billboard.** Any construction or portion thereof upon which a sign or advertisement used as an outdoor display for the purpose of making anything known to the general public, but not including bulletin boards used to display official court or public offer notices.



### Basement

If “A” is less than 1/2 of “B,” then “B” is a basement.

**Bioswale.** Bioswale means a vegetated, mulched or xeriscaped channel that provides treatment and retention as it moves stormwater from one place to another.

**Bioretention area or rain garden.** A bioretention area or rain garden is an excavated area that is back-filled with a prepared or amended soil mixture, covered with a mulch layer and planted with a diversity of woody or herbaceous vegetation to which stormwater is directed to promote infiltration and evapotranspiration.

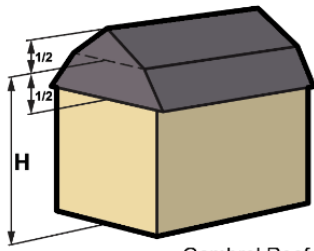
**Breweries, distilleries, tap rooms, and tasting rooms.** Any establishment licensed by the State of Michigan to produce and manufacture alcoholic beverages and sell at retail on the premises for consumption on or off the premises in accordance with applicable State, County, and local laws. This definition includes restaurants that possess both regular kitchen facilities and equipment for brewing, distilling, fermenting, or otherwise manufacturing alcoholic beverages.

**Buffer zone.** A strip of land often required between certain zoning districts or land uses reserved for plant material, berms, walls, or fencing to serve as a visual barrier.

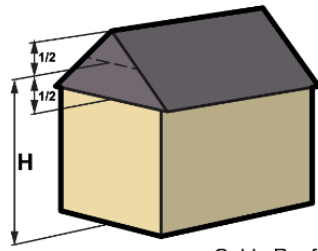
**Buildable area.** The space remaining on a lot after compliance with the minimum required setbacks of this Chapter.

**Building.** An independent structure having a roof supported by columns or walls, intended and/or used for shelter or enclosure of persons or chattels. When any portion thereof is completely separated from every other part by division walls from the ground up, and without openings, each portion of such building shall be deemed a separate building. This refers to both temporary and permanent structures and includes tents, sheds, garages, stables, greenhouses, or other accessory structures.

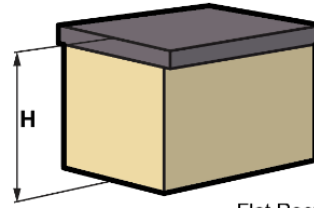
**Building height.** The vertical distance measured from the grade of the building to the top of the highest roof beams of a flat roof, to the deck line for mansard roofs and to the mean height level (between eaves and ridges) for gable, hip and gambrel roofs. Where a building is located upon a terrace, the height may be measured from the average grade of the terrace at the building wall. When a building faces on more than one street, the height shall be measured from the average of the grades at the center of each street front. (*See diagram: "Building Height"*)



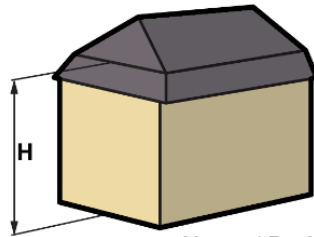
Gambrel Roof



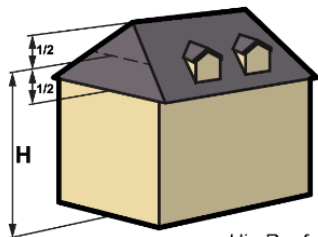
Gable Roof



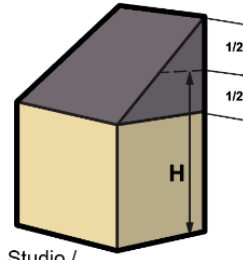
Flat Roof



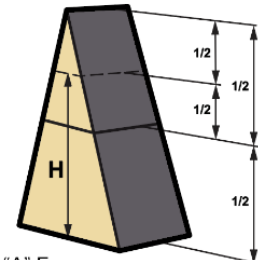
Mansard Roof



Hip Roof



Studio /  
Shed Roof



"A" Frame

## Building Height

H = Height of Building

**Building Inspector.** The Building Inspector of the City of Harper Woods, or their authorized representative.

**Building setback line.** The line which pertains to and defines those minimum (building) setback line which are established parallel to the front street or right-of-way line and within which setback area no part of a building shall project or be located, except as otherwise provided in this Ordinance. Such line when adjacent to a building is normally formed by the junction of the outer surface of the building or enclosure wall with the finish grade or surface of the adjoining ground.

**Building, principal.** A building in which is conducted the principal use of the lot upon which it is situated.

**Building permit.** The written authority issued by the Building Inspector permitting the construction, removal, moving, alteration, or use of a building in conformity with the provision of this Ordinance.

**Cemetery.** Land used or intended to be used for burial of the human dead and dedicated for such purpose.

**Certificate of Occupancy.** A document, signed by the Building Inspector and stamped by the City, indicating that all the provisions of the Building Code and Zoning Ordinance are being complied with, and the issued building may be safely occupied. The issuance of a Certificate of Occupancy does not waive any provisions of the Zoning Ordinance.

**Child care facility.** A facility receiving one or more minor children less than eighteen (18) years of age for care for a defined period as licensed by the Child Care Organizations Act, PA 116 of 1973, MCL 722.111 et seq. as amended. These types of facilities include the following:

- 1) **Foster family home.** The private home of an individual who is licensed to provide twenty-four (24) hour care for one (1) but not more than four (4) minor children who are placed away from their parent, legal guardian, or legal custodian in foster care.
- 2) **Foster family group home.** The private home of an individual who has been licensed by the department to provide twenty-four (24) hour care for more than four (4) but fewer than seven (7) minor children who are placed away from their parent, legal guardian, or legal custodian in foster care.
- 3) **Family child care home.** A private home in which one (1) but fewer than seven (7) minor children are received for care and supervision for compensation for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage, or adoption. Family child care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year. A family child care home does not include an individual providing babysitting services for another individual.
- 4) **Group child care home.** A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage, or adoption. Group child care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year.
- 5) **Child care center.** A facility other than a private residence, receiving one or more children under thirteen (13) years of age for care for periods of less than twenty-four (24) hours a day, where the parents or guardians are not immediately available to the child. Child care center includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day as regulated by the Child Care Organizations Act, PA 116 of 1973, MCL 722.111 et seq. as amended. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program, or drop-in center. Child care center does not include any of the following:

- a) A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are attending for not more than three (3) hours per day for an indefinite period or for not more than eight (8) hours per day for a period not to exceed four (4) weeks during a twelve (12) month period.
- b) A facility operated by a religious organization where children are in the religious organization's care for not more than three (3) hours while persons responsible for the children are attending religious services.
- c) A program that is primarily supervised, school-age-child-focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school-age-child-focused training.
- d) A program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.
- e) A program that primarily provides therapeutic services to a child.

**Cigar lounges, smoking lounges and smoke shops.** Establishments primarily used for the retail and consumption of tobacco and other nicotine-containing products for nonmedical purposes. This definition does not pertain to establishments that sell tobacco or nicotine-containing products that are accessory to unrelated merchandise, such as convenience stores.

- 1) **Cigar lounge.** Any establishment where patrons smoke cigars and which is operating under a cigar bar exemption from the state's smoking prohibition enacted by Public Act No. 188 of 2009, as amended. This type of facility does not include any establishment licensed by the state for the consumption of marijuana in any form.
- 2) **Smoke shop.** A retail establishment where 30% or more of the retail floor area, defined as wall to wall, is used for the display, promotion, or sale of inhalants and inhalant-related products listed below; or a retail establishment where the sale of inhalants and inhalant-related products listed below constitutes greater than 30% of the establishment's merchandise:
  - a) Cigarettes, cigars and packaged tobacco or shisha.
  - b) Tobacco or shisha for smoking paraphernalia products including, but not limited to, pipes for smoking tobacco, cigarette holders and cigarette rolling papers.
  - c) Tobacco promotional merchandise. including, but not limited to, posters, shirts, jackets, and hats advertising tobacco or shisha products.
  - d) Vapor containing nicotine and/or flavoring and vape-related products, including, but not limited to, electronic cigarettes, vape pens and vape cartridges.
  - e) Shisha that may or may not contain tobacco and/or flavoring and shisha-related products, including, but not limited to, hookahs, water pipes, or any instrument for heating or vaporizing and then smoking shisha.
- 3) **Smoking lounge.** Any establishment where patrons smoke cigarettes, inhale from vaping devices or share shisha, tobacco or another legal inhalant from a hookah, water pipe or similar device, which is

either shared communally or from one placed at each table or bar, and which is operating under a tobacco specialty retail store exemption from the state's smoking prohibition enacted by Public Act No. 188 of 2009, as amended. This establishment shall not include any establishment licensed by the state for the consumption of marihuana in any form.

**City.** The City of Harper Woods, Michigan.

**City Council.** The duly elected or appointed City Council of the City of Harper Woods.

**Clinic.** A building, portion of a building, or group of buildings where human patients are admitted, but not lodged overnight, for examination and treatment by more than one (1) professional, such as a physician, dentist, or the like.

**Club.** An association of persons, whether incorporated or not, united by some common interest, meeting periodically for cooperation or conviviality. Club shall also mean, where the context requires, premises are owned or occupied by members of such association within which the activities of the club are conducted.

**Cluster housing.** A group of buildings and especially houses built close together to form relatively compact units on a sizable tract to preserve open spaces and environmentally sensitive areas larger than the individual yards for common recreation.

**Clubs and lounges.** An establishment licensed by the State of Michigan to sell at retail and serve alcoholic beverages on the premises where more than thirty percent (30%) of the gross floor area is made up of a bar, being a barrier or counter at which any alcoholic beverages are sold or served to and consumed by customers, and also including areas dedicated for the use of stages, dance floors, standing-room areas, pool tables and similar mechanical amusement devices.

**Commercial use.** The use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise or personal services or the maintenance of offices or recreational or amusement enterprises, or garage, basement sales conducted on residential premises for more than six (6) calendar days during a given one (1) year period.

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

**Commission.** The word "Commission" and the term "Planning Commission," shall mean the City of Harper Woods Planning Commission.

**Common land.** A parcel or parcels of land with the improvements thereon, the use, maintenance and enjoyment of which are intended to be shared by the owners and/or occupants of individual building units in a subdivision or a planned unit development.

**Common open space.** An unoccupied area within a planned unit development which is reserved primarily for the leisure and recreational use of all the planned unit development residents, owners and occupants, and generally owned and maintained in common by them, often through a homeowners' association.

**Conditional Rezoning Agreement (CRA).** A written agreement approved and executed by the City and property owner setting forth the conditions attached to the rezoning pursuant to Michigan Zoning Enabling Act (PA 110 of 2006), as amended, and any other terms mutually agreed upon by the parties relative to land for which the city has approved a conditional rezoning.

**Conditional Rezoning Plan.** A plan of the property, which is the subject of a conditional rezoning, with conditions, prepared by a Michigan licensed civil engineer or architect, that may show the location, size, height, design, architecture, or other feature for and/or of buildings, structures, improvements, and features on, and in some cases adjacent to, the property. The details to be offered for inclusion within the conditional rezoning plan are determined by the applicant, subject to approval of the City Council after recommendation by the Planning Commission.

**Condominium.** A condominium is a system of separate ownership of individual units and/or multiple-unit projects according to Public Act 59 of 1978, as amended. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners. The following definitions apply specifically to condominium developments:

- 1) **Condominium Act:** Michigan Act 59 of 1978, as amended.
- 2) **Contractible condominium.** A condominium project from which any portion of the submitted land or building may be withdrawn in pursuant to express provisions in the condominium documents and in accordance with the City of Harper Woods Code of Ordinances and the Condominium Act.
- 3) **Convertible area.** A unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to provisions in the condominium documents and in accordance with this Zoning Code and the Condominium Act.
- 4) **Conversion condominium.** A condominium project containing condominium units some or all of which were occupied before the establishment of the condominium project.
- 5) **Condominium Master Deed.** The condominium document recording the condominium project as approved by the City, including attached exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.
- 6) **Condominium subdivision plan.** Drawings and information which show the size, location, area, and boundaries of each condominium unit, building locations, the nature, location, and approximate size of common elements, and other information required by Section 66 of Michigan Public Act 59 of 1978, as amended.
- 7) **Condominium unit.** The portion of the condominium project designed and intended for separate ownership as described in the Master Deed , regardless of whether it is intended for residential, office, business, recreational, use as a time-share unit, or any other type of use.
- 8) **Condominium unit site (or site condominium lot).** The area designating the perimeter within which the condominium unit must be built. After construction of the condominium unit, the balance of the condominium unit site shall become a limited common element. The term “condominium unit site” shall be equivalent to the term “lot” for purposes of determining compliance of a site condominium subdivision with the provisions of this Zoning Code pertaining to minimum lot size, minimum lot width, minimum lot coverage and maximum floor area ratio. Condominium setbacks shall be measured as described below:
  - a) **Front Yard Setback.** The distance between the public street right-of-way or private road easement line and the foundation of the unit site. Where there is no public right-of-way or access easement, the front yard setback required in the district shall be measured from fifteen (15) feet from the nearest pavement edge to the foundation of the unit.

- b) **Side Yard Setback.** The distance between the side of a condominium building unit and the side unit (lot) line. Where no unit (lot) lines are provided, the distance between the closest points of two (2) units shall be double the side yard setback required in the zoning district.
  - c) **Rear Yard Setback.** The perimeter shall be the distance between the limit of the development and the rear of the unit; within the development rear yards setbacks shall be measured as the distance between the rear building line and the rear site (lot) line, or where lot lines are not defined, the space between the rear building lines of two (2) buildings shall be double the rear yard setback required in the zoning district.
- 9) **Expendable condominium.** A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with this Zoning Code and the Condominium Act.
  - 10) **General common element.** The common elements other than the limited common elements intended for the common use of all co-owners.
  - 11) **Limited common element.** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.
  - 12) **Site condominium project.** A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision. A residential site condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in this Zoning Code.

**Contractor's storage yard.** A site on which a building or construction contractor stores within an enclosed building, and/or in an outdoor storage yard, equipment, tools, vehicles, building materials, and other appurtenances used in or associated with building or construction. A contractor's storage yard includes any instance where the vehicles associated with the business are parked outside of a building.

**Convenience store.** A retail store with a floor area generally less than fifteen thousand (15,000) square feet that sells food, beverages, stationary, personal care items, and other such goods for immediate consumption. This definition applies to all stores that may have a pharmacy, prepared food sales, and other such activities within, provided that those facilities are not the primary use of the property.

- 1) **Convenience stores, retail-only.** Convenience store establishments that provide only retail services, and do not possess the facilities necessary for preparing food for consumption on-site or for take-out.
- 2) **Convenience stores, food service.** A convenience store where food is prepared for consumption on-site or for takeout. This definition pertains to convenience stores that provide food service using kitchen facilities for preparing food by staff, and not stores that are only equipped with self-service devices such as microwaves or warming equipment.
- 3) **Convenience stores, vehicle fueling station.** Convenience stores associated with vehicle fueling stations that are the primary land use for the property. This definition includes convenience stores that may have kitchen facilities or restaurants within the same building.

**Converted dwelling.** A building originally constructed as a single detached dwelling unit which, because of size or design, has been converted by partition or the addition of sanitary and cooking facilities or both, into more than one dwelling unit.

**Cottage court.** A group of small, detached structures arranged around a shared court that may or may not be visible from the street. The shared court includes both open space and community amenities such as gazebos, gardens, and playgrounds.

**Council:** The word "Council" and the term "City Council" shall mean the City Council of the City of Harper Woods.

**Court or courtyard:** A yard, other than a required open space, on the same lot with a building or group of buildings, and which is bounded on two (2) or more sides by such building or buildings.

**Cul-de-sac.** A local street, one end of which is closed and consists of a circular turn-around.

**Deceleration lane.** An added roadway lane that permits vehicles to slow down and leave the main vehicle stream before turning.

**Density.** The number of dwelling units per acre of land.

- 1) **Density, gross.** The number units per acre of total land being developed, including all streets, public rights-of-way, and public land determined by the Planning Commission as being included in the development.
- 2) **Density, net.** The number of units per acre of land devoted to residential use (excluding streets and public right-of-way).

**Development.** The construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof.

**District.** A portion of the City within which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under the provisions of this Chapter.

**Drive-through facility.** A facility that dispenses goods through an attendant window or automated machine to persons remaining in or on motor vehicles in a designated drive aisle. A drive-through may or may not operate in conjunction with another principal use.

**Dwelling.** Any building, or part thereof, containing sleeping, kitchen, and bathroom facilities which is occupied as the home, residence or sleeping place of one family. In no case shall a travel trailer, recreational vehicle, automobile, tent or other portable building not defined as a recreational vehicle be considered a dwelling. In the case of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purposes of this ordinance. The following are the types of dwelling structures:

- 1) **Dwelling, accessory unit.** A dwelling unit that is subordinate and incidental to a primary building on the same lot. An accessory dwelling unit may be detached or attached to the primary building.
- 2) **Dwelling, single-unit or single-family.** A single primary building that contains only one dwelling unit.
- 3) **Dwelling, two-unit or duplex.** A single primary building that contains two (2) dwelling units.
- 4) **Dwelling, three-unit or triplex.** A single primary building that contains three (3) dwelling units.
- 5) **Dwelling, four-unit or fourplex.** A single primary building that contains four (4) dwelling units.
- 6) **Dwelling, multiple-unit.** A single primary building that contains five (5) or more dwelling units.

**Dwelling, manufactured.** A structure, built in a factory to Department of Housing and Urban Development Manufactured Home Construction and Safety Standards (24 C.F.R. part 3280) regulations and transportable in one or more sections, which is built upon a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained in the structure as defined and regulated in the Manufactured

Housing Commission Act, PA 96 of 1987, MCL 125.2301 et seq., as amended. Recreational vehicles as described and regulated in this section shall not be considered Manufactured Home Dwellings for the purpose of this chapter.

**Dwelling, modular.** A structure constructed in accordance with Michigan State Construction Code, as promulgated by the Michigan State Construction Code Commission under the provisions of the State Construction Code Act, MCL 125.1501, et. seq., as amended, in which individual components, none of which in and of itself is suitable for occupancy, are preconstructed and transported to the building site where they are in need of further assembly in order to constitute a complete dwelling ready for occupancy upon a permanent foundation on the lot, and to which such major elements as the heating system or a substantial portion of the siding are installed after transport. Such a structure shall not be considered a manufactured home dwelling or manufactured home.

**Easement.** A grant of one (1) or more of the property rights by a property owner to and/or for use by the public, or another person or entity.

**Electric Vehicle Supply Equipment (EVSE).** Known as a “charger”, the EVSE includes the conductors, including the ungrounded, grounded, and equipment grounding conductors, electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatuses installed specifically for the purpose of delivering energy from the premises wiring to an electric vehicle.

**Erected.** Built, constructed, reconstructed, moved from one site to another or any physical operations on the premises required for the construction of the building including excavations, fill, drainage, and similar operations.

**Essential services.** The erection, construction, alteration or maintenance by public utilities or public authorities, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrant or other similar equipment and accessories in connection therewith, not including buildings, as shall be reasonably necessary for the furnishing of adequate services by public utilities, or public authorities, or for the public health, safety or general welfare (not including buildings other than are primarily enclosures or shelters of the above essential service equipment). Same shall be permitted as authorized by law and other ordinances, the intent here being to exempt such erection from the application of this Ordinance.

**Event Hall.** A special purpose room, or a building, used for hosting social and business events.

**Façade.** The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

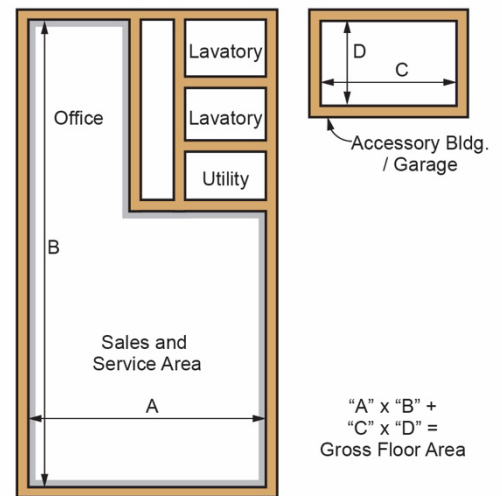
**Family.**

- 1) An individual or group of 2 or more persons related by blood, marriage or adoption, together with foster children of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
- 2) A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuous, nontransient, domestic character and who are cooking and living as a single, nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature of for an anticipated limited duration of a school term or terms of other similar determinable periods.

**Fence.** An artificially constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of material and used to prevent or control entrance, confine within, or mark a boundary. (See *clear vision zone*; see *screening*)

**Floor area.** The sum of the horizontal areas of each floor of a building, measured from the interior faces of the exterior walls or from the centerline of walls separating two buildings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages or space used for off-street parking or loading, breezeways, enclosed and unenclosed porches (enclosed and unenclosed), elevator or stair bulkheads, and accessory structures.

- 1) **Floor area, gross.** The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings. The "floor area" of a building, which is what this normally is referred to as, shall include the basement floor area when more than one-half (1/2) of the basement height is above the established curb level or finished lot grade, whichever is higher (see *basement*).
- 2) **Floor area, usable.** The measurement of usable floor area shall include that portion of the floor area, measured from the interior face of the exterior walls, used for or intended to be used for services to the public or customers, patrons, clients, or patients; including areas occupied by fixtures or equipment used for display or sale of goods or merchandise, but not including areas used or intended to be used for storage of merchandise, utility or mechanical equipment rooms, or sanitary facilities. In the case of a half story, the usable floor area shall be considered to be only that portion having a clear height above it of four (4) feet or more. (See *diagram: "Floor Area Terminology"*.)
- 3) **Gross leasable area (GLA).** The total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines and upper floors, if any, expressed in square feet and measured from the center line of joint partitions and from outside wall faces. It is all the floor area on which tenants pay rent.



## Floor Area

 Usable Floor Area

**Floor-area ratio (FAR):** The gross floor area of all buildings on a lot divided by the lot area. For example, If a two-story building with the equivalent of one-half (1/2) acres of area per floor is located on a four (4) acre lot, then the building has a FAR of 0.25.

**Food.** For purposes of this Chapter, the word "food" used in connection with restaurant facilities shall include frozen desserts and non-alcoholic beverages.

**Frontage road.** A public or private drive which generally parallels a public street between the right-of-way and the front building setback line. Frontage roads can be one-way or bidirectional in design. The frontage road provides specific access points to private properties while maintaining separation between the arterial street and adjacent land uses. A road which allows parking or is used as a maneuvering aisle within a parking area is not considered a frontage road.

**Funeral home, or mortuary.** A building or part thereof used for human funeral services. Such building may contain space and facilities for:

- 1) Embalming and the performance of other services used in preparation of the dead for burial;
- 2) The performance of autopsies and other surgical procedures;
- 3) The storage of caskets, funeral urns, and other related funeral supplies; and
- 4) The storage of funeral vehicles.

This definition shall not be construed as to include facilities for cremation.

**Garage.** A fully or partially enclosed structure that meets the minimum space requirements to store one (1) or more vehicles.

- 1) **Garage, community.** A space or structure or series of structures for the storage of vehicles, having no public shop or service operated in connection therewith, for the use of two (2) or more owners or occupants of property in the vicinity.
- 2) **Garage, private.** An accessory building designed or used for the storage of motor vehicles, including commercial type vehicles used for personal or recreational purposes and commercial vehicles having no more than one (1) front and one (1) rear axle (tractor-trailer vehicles being considered as one (1) vehicle), which are owned and operated by a member of the family who resides in the dwelling unit on said lot.
- 3) **Garage, public.** A space of structure other than a private garage for the storage, care, repair or refinishing of motor vehicles; provided, however, that a structure or room used solely for the display and sale of such vehicles in which they are not operated under their own power, and in connection with which there is no repair, maintenance, or refinishing service or storage of vehicles other than those displayed, shall not be considered as a public garage for the purpose of this Zoning Ordinance.

**Garbage.** The word “garbage” shall be made to include every refuse, accumulation of all waste, animal, fish, fowl, fruit or vegetable matter incident to the preparation, use, cooking, dealing in or storage of meat, fish, fowl, fruit and vegetables, including spoiled food, dead animals, animal manure and fowl manure.

**Ghost kitchen.** An establishment where individual meals and beverages are prepared and then delivered to the customer. The facility does not have a carry-out counter, customer seating or the capability of taking customer orders in person. Patrons order food and beverages through remote means, including but not limited to online or over the phone.

- 1) **Ghost kitchen, accessory.** A ghost kitchen where the preparation of meals is in a traditional food service establishment, but the food service menu and ordering system is only accessible remotely and not component to dining in the physical establishment.
- 2) **Ghost kitchen, principal.** An establishment where the ghost kitchen is the principal use of the property and no food or beverages can be ordered on-site in person, whether seated or through a carry-out counter.

**General Fabrication and Operations Assembly.** The processes involving the manufacturing, processing, fabrication, or assembly of products or materials, which may include the shaping, cutting, forming, or joining of components to create finished or semi-finished goods. These operations may occur within enclosed structures and may involve the storage of materials, handling, packaging, or treatment of products prior to distribution or sale.

**Glare.** The effect produced by brightness or a source of illumination sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**Grade.** The ground elevation established for the purpose of regulating the number of stories or height of a building. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building. All changes in the nature grade of a site shall be done in accordance with the provisions of Section 5.21.

**Greenbelt.** A landscaped strip of land not less than five (5) feet in width the design (including tree species and caliper, and shrub species) of which has been approved by the Planning Commission and Building Inspector.

**Green infrastructure.** Green infrastructure refers to those methods of stormwater treatment and control that use the natural capacities of soil and vegetation to prevent or reduce stormwater runoff and associated nonpoint source pollution. Green infrastructure methods often are combined with conventional or structural stormwater treatment systems, such as separators, ponds or underground systems, to create stormwater “treatment trains” that enhance stormwater treatment and water quality.

**Green roof.** An engineered roofing system that includes vegetation planted in a growing medium above an underlying waterproof membrane material designed to reduce the volume of stormwater runoff from building roofs.

**Green wall.** The use of a supporting structure or wall panel that enables plants to grow vertically along the façade of a building or structure to provide air and water quality functions as well as aesthetic enhancement.

**Health or fitness club.** A building or portion of a building designed and equipped for the conduct of physical exercise, organized classes, martial arts, personal training, or other customary and usual recreational activities that occur in an entirely enclosed building. Such uses are operated for profit or not-for-profit, and which can be open only to bona fide members and guests of the organization or open to the public for a fee. Such uses may also include saunas, locker rooms, showers, or personal services. Such uses shall not include alleys, ballfields, courts, pools or rinks nor spectator seating for organized sporting events nor activities that utilize firearms such as a gun range.

**Hedge.** A row of closely planted shrubs or small trees forming a boundary or fence.

**Home occupation.** Any use customarily conducted entirely within the dwelling and carried on by the inhabitants thereof, not involving employees other than members of the immediate family residing on the premises, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, does not change the character thereof, and which does not endanger the health, safety, and welfare of any other persons residing in that area by reason of noise, noxious odors, unsanitary or unsightly conditions, fire hazards and the like, involved in or resulting from such occupation, professions or hobby. No article or service is sold or offered for sale on the premises, except as such as is produced by such occupation. Home occupations do not require internal or external alterations or construction features, or include equipment, machinery, outdoor storage, or delivery of items in a frequency or volume that is not customary to residential areas.

**Hospice.** A facility to provide supportive care for terminally ill patients, who may reside in the facility.

**Hospital.** A building, structure or institution in which sick or injured persons, primarily in-patients, are given medical or surgical treatment and operating under license by the Michigan Department of Health and Human Services and any other superseding agencies.

**Hotels and motels.** A building occupied as a temporary abiding place for individuals, who are lodged with or without meals in rooms occupied singly for hire, and in which there are more than ten (10) sleeping rooms. A

hotel is differentiated from a motel in that access to units or rooms is from an interior hallway, regardless of if outside access is also available. Motels are differentiated from hotels in that access to and from each unit or room is through an exterior door, rather than an interior hallway.

**Housing for older adults.** Residential developments and facilities where dwelling units are made available only for adults more than fifty-five (55) years of age. This definition pertains to both multiple-unit and attached single-unit developments, as well as detached housing developments. This definition includes the following:

- 1) ***Detached older adult housing communities.*** Planned developments or commonly owned parcels with detached dwelling units for older adults.
- 2) ***Multiple-unit residential housing for older adults.*** A building or group of buildings containing dwellings where the occupancy is restricted to older adults as defined in this ordinance. This definition shall not be construed as to apply to long-term convalescent care or nursing facilities.
- 3) ***Congregate housing.*** A type of semi-independent housing facility containing congregate kitchen, dining, and living areas, but with separate sleeping rooms or apartments (which may include working facilities). Such facilities typically provide special support services, such as transportation and limited medical care, and where the occupancy is restricted to older adults, as defined in this Zoning Ordinance.

**Impervious surface.** Any pavement or structural element that prevents rain, surface water runoff or melting snow from infiltrating into the ground, including, but not limited to roofs and paved roads, driveways and parking lots.

**Invasive species.** A species that is non-native (or alien) to the Michigan ecosystem and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

**Institutional.** The use of land, buildings or structure for religious, charitable, educational health or welfare purposes, and includes nonprofit institutions, places of worship, public or private schools and nursery schools.

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

**kennel.** Any lot, premises or establishment where four (4) or more dogs, cats, or other domestic animals six (6) months or older are kept, either permanently or temporarily, either for sale, breeding, boarding, training, hobby, protection, grooming or as pets; and may offer provisions for minor medical treatment including animal shelters.

**Landscaping.** The treatment of the ground surface with live plant materials such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other live plant material. In addition, a landscape design may include other decorative non-natural materials, such as wood chips, crushed stone, boulders, or mulch. Structural features such as fountains, pools, statues, and benches shall also be considered a part of landscaping, but only if provided in combination with live plant material. Artificial plant materials shall not be counted toward meeting the requirements for landscaping.

**Live-Work.** A property that combines residential living space with commercial, office, or manufacturing space.

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

**Lot.** A piece or parcel of land occupied or intended to be occupied by a building and any accessory buildings or by any other use or activity permitted thereon and including the open spaces and yards required under this Zoning Ordinance and having its frontage upon a public street or road either dedicated to the public or designed on a recorded subdivision.

Provided that the owner of any number of contiguous lots may have as many of said contiguous lots considered as a single lot for the purpose of this Ordinance as he elects, and in such case the outside perimeter of said group of lots shall constitute the front, rear, and side lot lines thereof. This latter parcel is then often referred to as a "zoning lot".

- 1) **Lot depth.** The mean horizontal distance from front lot line to the rear lot line.
- 2) **Lot, corner.** A lot where the interior angle of two (2) adjacent sides at the intersection of two (2) streets is less than one-hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than 150 feet and the tangents to the curve, at the two (2) points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one-hundred thirty-five (135) degrees. (See diagram: "Corner, Interior and Through Lots".)

- 3) **Lot, double frontage.** A lot other than a corner lot having frontage on two (2) more or less parallel streets. In the case of a row of double frontage lots, one (1) street will be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing buildings in the same block fronting on one or both of the streets, the required minimum front yard setback shall be observed on those streets where the majority of the buildings presently front. Also known as a "through lot".

- 4) **Lot, interior.** A lot other than a corner lot with only one (1) lot line fronting on a street.



**Corner, Interior, and Through Lots**

- 5) **Lot width.** The horizontal distance between the side lot lines, measured at the two (2) points where the building line, or setback line, intersects the side lot lines.

**Lot area.** The total horizontal area within the lot lines of the lot.

**Lot coverage.** The part or percent of the lot occupied by buildings, structures including accessory buildings or structures, and permanent swimming pools.

**Lot frontage.** The length of the front lot line abutting a road right-of-way.

**Lot line.** Any line dividing one (1) lot from another or from the right-of-way, and thus constitute property lines bounding a lot.

- 1) **Lot line, front.** In the case of an interior lot abutting on one (1) public or private street, the front lot line shall mean the line separating the lot from such street right-of-way. In the case of a corner or double frontage lot, the front lot line shall be that line separating said lot from that street which is designated as the front street in the plat and/or in the request for a zoning compliance permit.

- 2) **Lot line, rear.** The rear lot line is that boundary which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line not less than 10 feet long lying farthest from the front lot line and wholly within the lot. In any case, when this definition does not apply, the Planning Commission shall designate the rear lot line.
- 3) **Lot line, side.** Any lot boundary line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots in an interior lot line.

**Lot of record.** A lot, the dimension and configuration of which are shown on a map recorded in the office of the Register of Deeds for Wayne County, or a lot or parcel described by metes and bounds, the accuracy of which is attested to by a Professional Engineer or Land Surveyor (so registered and licensed in the State of Michigan) and likewise so recorded on a file with the County.

**Maneuvering lane.** A portion of a private parking area, or a commercial parking lot, or a private or a commercial parking structure which abuts a parking space on one or more sides and which provides access from the parking space to a street or lane, and which is not used for vehicular parking.

**Maneuvering space.** An open space in a parking area which is immediately adjacent to a parking space, is used for and/or is necessary for turning, backing, or driving forward a motor vehicle into such parking space but is not used for the parking or storage of motor vehicles.

**Manufactured Home Park.** A parcel or tract of land under the control of a person upon which ten (10) or more manufactured dwellings are located on a continual nonrecreational basis and which is offered to the public for that purpose, regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home and which is not intended for use as a temporary travel trailer park subject to conditions set forth in the Mobile Home Commission Act, PA 96 of 1987, MCL 125.2301 et seq., as amended.

**Marijuana establishment.** A marihuana grower or excess grower, marihuana safety compliance facility, marihuana processor, marihuana micro-business, marihuana retailer, marihuana secure transporter, designated consumption establishment or any other type of marihuana-related business licensed by the department.

**Marijuana retailer.** A person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are twenty-one (21) years of age or older.

**Massage establishment.** An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

**Master plan.** The comprehensive plan(s) including graphic and written proposals indicating the development goals and objectives, the planned future use of all land within the City of Harper Woods, as well as the general location for streets, parks, schools, public buildings, and all physical development of the City of Harper Woods, and includes any unit or part of such plan(s), and any amendment to such plan(s) or part(s) thereof. Such plan(s) shall be adopted by the Planning Commission and may or may not be adopted by Council.

**Medical office or clinic.** A facility for physicians, dentists, chiropractors, physical therapists, mental health practitioners, or other licensed healthcare practitioners to examine and treat persons on an outpatient basis.

**Monopole.** A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation, primarily used for wireless telecommunication facilities.

**Mural.** A graphic displayed on the exterior of a building for the purposes of decoration or artistic expression that does not contain any brand name, product name, trademark, trade name, logo, or abbreviation related to a product, company, profession, business, or any other commercial message.

**Native plants.** A plant that is a part of the balance of nature that has developed over hundreds or thousands of years in Michigan or the Great Lakes region.

**Nonconformity.** A structure or use of land that, on the effective date of adoption of this Zoning Ordinance or previous Zoning Ordinances, or on the effective date of an Ordinance text or map amendment, does not conform to one or more of the regulations currently applicable to the district in which the lot, building, structure, or use is located.

- 1) **Legal nonconformity.** Properties or structures that were a lawfully conforming at the time of the adoption of this Zoning Ordinance or amendments has taken effect, and which no longer conforms to one or more of the regulations pertaining to that district.
- 2) **Illegal nonconformity.** A structure or use that did not legally exist prior to the adoption of this Zoning Ordinance and does not conform with the current Ordinance requirements effective of its date of adoption.
- 3) **Nonconforming lot.** A lot, the area, frontage or dimensions of which do not conform to the provisions of this Chapter.
- 4) **Nonconforming setback.** An established setback that does not conform to the requirements of this Chapter.
- 5) **Nonconforming use.** A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereto, and that does not conform to the use regulations of the zoning district in which it is located.
- 6) **Nonconforming building or structure.** A building, structure or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, and which does not conform to the provisions (e.g., setbacks, height, lot coverage, parking) of this Ordinance in the zoning district in which it is located.

**Nursing or convalescent care facility.** A facility for the care of children or older adults or infirmed persons, or a place of rest for those with severe illness, wherein three (3) or more persons are cared for. Said home shall also conform to, and qualify for license under applicable State laws, including dimensional and use requirements set by the State that preempt the regulations in this Zoning Ordinance. This definition shall also apply to facilities known as assisted living facilities, memory care facilities, nursing homes, and similar such facilities. This definition does not apply to older adult housing where long-term medical care is not the principal activity in the building, nor does it apply to hospice facilities.

**Occupancy load.** The maximum number of occupants for which a building or part thereof, or for which the existing facilities has been designed.

**Occupied.** Arranged, designed, built, altered, converted to, rented, leased, or intended to be inhabited; not necessarily for dwelling purposes.

**Offices.** A room, suite of rooms, or building in which a person transacts the affairs of a business, profession, service, industry, or government.

**Off-street parking lot.** A facility providing vehicular parking spaces along with adequate entry/exit drives and aisles for maneuvering which allow for three or more vehicles to park in the designated spaces.

**Older adult.** An adult that is over the age of fifty-five (55) years and is therefore classified as “elderly,” pursuant to the definition established under Section 125.1441(o) of the State Housing Development Authority Act (P.A. 346 of 1966), as amended.

**Open air business uses.** Any use of land or any use of a street that is not fully enclosed by a roof or solid walls where the goods and services being displayed are also sold on-site, which includes, but is not limited to, the following:

- 1) Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
- 2) Retail sale of fruit and vegetables.
- 3) Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park and/or similar recreation uses. This definition pertains only uses where such uses are privately owned and does not include public parks or recreational facilities that provide similar activities or services.
- 4) Bicycle, utility truck or trailer, motor vehicles, boats or home equipment sale, rental, or repair services.
- 5) Outdoor display and sale of garages, swimming pools, motor homes, manufactured homes, snowmobiles, farm implements, and similar products.

**Outdoor dining.** Any area where food and other refreshments are served or consumed within the public right-of-way, i.e., the sidewalks immediately in front of any food establishment, cafe, or place of business where food and/or other refreshments are served, or where permitted on private property.

**Outdoor storage.** The of any goods, junk material, merchandise or vehicles in the same place for more than twenty-four (24) hours in an unroofed area or unenclosed portions of buildings which are open to the air on the sides.

**Owner.** The person who holds legal title to a piece of property.

**Parapet wall.** An extension of a building wall above the roof which may serve to screen roof-mounted mechanical equipment.

**Park, playground, or playfield.** A parcel of land that is used as a park and is operated under the supervision of the City of Harper Woods, Wayne County, Huron-Clinton Metropolitan Authority, State of Michigan, or any private, public, or nonprofit entity. This definition includes parcels of land where the principal use is for playground structures or open fields for play and sporting activities.

**Parking space.** An area for each automobile or motor vehicle, such space being exclusive of necessary drives, aisles, entrances, or exits, and being fully accessible for the storage or parking of self-propelled vehicles.

**Pavement.** Plant-mixed bituminous material, concrete, and brick or masonry pavers meeting the construction specifications of the City of Harper Woods.

**Permeable surfacing.** A material or materials and accompanying subsurface treatments designed and installed specifically to allow stormwater to penetrate into it, reducing the volume of stormwater runoff from the surfaced area. Permeable surfacing may include paver blocks or permeable concrete or asphalt.

**Personal Services Establishment.** Establishment providing services, as opposed to products, to the general public, including financial services, pharmacies, insurance, real estate, dry cleaning, tailors, salons, spas, wellness, and similar uses. Personal services shall not include auto-related uses.

**Place of worship.** A building wherein persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to sustain public worship.

**Plat.** A map of a subdivision of land.

**Planter box.** Planter box means a structure with vertical walls and an open or closed bottom that may be attached to a building or structure and is planted with a soil medium and vegetation intended to collect, absorb and treat runoff from impervious surfaces.

**Principal permitted use.** A use permitted in each zoning district by right subject to site plan review approval.

**Private club.** A building or part of a building used exclusively by the members and guests of a club for social, recreational or athletic activities.

**Public notice.** Except where otherwise expressly provided herein, a notice of the time, place and purpose of a public hearing shall be published in a newspaper having circulation in the City and be sent by mail or personal delivery to the property owner involved in the request; property owners within 300 feet of the property; and all occupants of structures within 300 feet of the property regardless of the zoning jurisdiction not less than 15 days prior to the date of such hearing. The notice shall also describe the nature of the request, the street address(es) involved in the request, and when and where written comments will be received.

**Public service.** Public service facilities within the context of this Zoning Code shall include such uses and services as voting booths, pumping stations, fire halls, police stations, temporary quarters for welfare agencies, public health activities and similar uses including essential public services.

**Public uses.** Administrative and cultural buildings, uses, and structures, including buildings, lots, and facilities owned, used, or operated by any governmental agency.

**Public utility.** Any person, firm, corporation, municipal department or board duly authorized to furnish under municipal or state regulation to the public: transportation, water, gas, electricity, telephone, steam, telegraph, or sewage disposal.

**Recreation/entertainment facility.** An establishment which provides courts, fields, tracks, lanes, alleys, pools or other specialized sport facilities, and which may include spectator seating in conjunction with the sports facilities.

- 1) **Recreation/entertainment facility, indoor.** Any recreation/entertainment facility where all sports facilities are completely enclosed within a building or structure.
- 2) **Recreation/entertainment facility, outdoor.** Any recreation/entertainment facility where all or a portion of the sports facilities are not located completely within an enclosed building or structure.
- 3) **Recreation facility, private.** Any recreation/entertainment facility owned and/or operated by a non-government entity affiliated private individual, business, club or organization as a for-profit or non-profit facility.
- 4) **Recreation facility, public.** Any recreation/entertainment facility owned and/or operated by a government entity.

**Recreational Vehicle (RV).** The following vehicles shall be considered "recreational vehicles:" travel trailers; pick-up campers; motor homes; folding tent trailers; boats and personal watercraft with associated trailers; snowmobiles; and all-terrain or special terrain vehicles. It shall not include motorcycles, motor bikes, and bicycles.

**Recycling center.** A facility at which used material is separated and processed prior to shipment to others who will use the materials to manufacture new products.

**Redevelopment.** The removal of buildings or structures from land and the construction or erection of other buildings or structures thereon.

**Research and development establishment.** A facility where testing, research, and development is conducted in industries such as biotechnology, pharmaceuticals, medical instrumentation or supplies, communication and information technology, vehicle components, and electronics and instrumentation. Other than prototype development, excludes the manufacturing, fabrication, processing, or sale of products.

**Restaurant.** A business where food and beverages are prepared for and served to patrons for consumption either on-premises or off-premises. Includes such uses as cafes, coffee shops, diners, fast-food establishments, lunch counters, and cafeterias.

**Restore.** To make structural or cosmetic changes to a building to return it to sound structural condition, or to its original or previous appearance.

**Retail store.** Any building or structure in which goods, wares, or merchandise are sold to the consumer for direct consumption and not for resale.

**Retaining wall.** A permanent solid barrier of brick, stone, wood or other opaque material approved by the Building Inspector intended to enclose an area. For the purpose of this Chapter all supporting members, posts, stringers, braces, pilasters or other construction features of a retaining wall shall be located and placed on the inside of the wall away from public view. All retaining walls, moreover, shall be constructed and/or painted, tinted or colored in one (1) color only for their exterior surface, and no sign or advertising shall be placed, affixed, painted or designed thereon.

**Rezoning.** The amendment of this Zoning Code to change the Zoning Map classification on property from its existing district to a new district classification. Also referred to as a "zoning map amendment."

**Rezoning conditions.** Conditions regarding the development and use of property proposed by the applicant and approved by the City for a Conditional Rezoning Agreement (CRA).

**Right-of-way (ROW).** A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, trail, water line, sanitary sewer, and/or other public utilities or facilities.

**Satellite antenna.** An antenna and attendant processing equipment for reception of electronic signals from satellites.

**Satellite dish.** A structure designed and used for the reception of television signals related back to earth from a communications satellite.

**School.** A public, private, parochial, or charter elementary or secondary educational entity or agency that is established under this act or under other law of this state, has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, intermediate school district, school of excellence corporation, public school academy corporation, strict discipline academy corporation, urban high school academy corporation, or by the department, the state board, or another public

body. This definition also pertains to laboratory schools or other elementary or secondary schools that is controlled and operated by a state public university. This definition pertains only to those licensed by the State of Michigan. This definition does not apply to trade schools, colleges and universities, or workforce training centers that are not accredited by the aforementioned agencies and departments.

- 1) **School, charter.** A charter school or public school academy is a public school and a school district, and is subject to the leadership and general supervision of the state board over all public education. A public school academy is authorized by the executive action of an authorizing body which may be the board of a school district, and intermediate school board, or the board of a community college or a state public university. A charter school shall not be organized by a church or other religious organization.
- 2) **School, home.** Home school enables a child to be educated at the child's home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science history, civics, literature, writing and English grammar. The home school family may choose whether to operate as a nonpublic school. If a home school family chooses to operate as a nonpublic school, it must register with the Michigan Department of Education.
- 3) **School, nonpublic.** A nonpublic school is any school other than a public school giving instruction to children below the age of 16 years and not under the exclusive supervision and control of the officials having charge of the public schools of the state. Nonpublic schools include private, denominational, and parochial schools.
- 4) **School, public.** A public school is a public elementary of secondary educational entity or agency that has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, public school academy corporation, public state university, or by the department or state board.

**Screening.** A continuous fence, wall, compact evergreen hedge, vegetative plantings, and other singular or combination of vertical features that would effectively screen the property which it encloses from view outside of the property lines, and is broken only by access drives and walks. (See **clear vision zone**; see **fence**; see **hedge**.)

**Semi-public uses.** Philanthropic and charitable uses, including YMCAs, YWCAs, Salvation Army facilities, churches, and church-related institutions, orphanages, humane societies, private welfare organizations, and general charitable institutions. This shall also include all buildings and premises used in the operation of the semi-public use.

**Separate ownership.** Ownership of a parcel of property wherein the owner does not own adjoining vacant property. Owner of a property may include dual or multiple ownership by a partnership, corporation, or other group. Provided, that the owner of any number of contiguous lots of record considered as a single lot of record for the purpose of this Chapter as he soelects, and in such case the outside perimeter of said group of lots of record shall constitute the front, rear and side lot lines thereof.

**Setback.** The horizontal distance between the front side or rear line of the building, excluding steps or open porches and the front street or right-of-way line. The required setback area is that area encompassed by the respective lot lines and setback lines. (see **yard**)

**Setback, required.** The required minimum horizontal distance between a front, rear, or side lot line and a building line.

**Shopping center.** A group of commercial uses, which have been designed, developed and managed as a unit by a single owner or tenant, or a group of owners or tenants and distinguished from a business area comprising unrelated individual uses.

**Short-term rental.** As defined by Section 11-123 in the Harper Woods Code of Ordinances, short-term rentals refer to the commercial use of renting a dwelling unit or rooming unit in exchange for compensation or other consideration as residential accommodations for a period of at least one night but not more than ninety (90) consecutive calendar days.

**Sign.** Any device using words, numerals, figures, designs or trademarks designed to inform or attract the attention of persons not on the premises on which the sign is located. Signs shall be regulated in accordance with the Sign Ordinance of the City of Harper Woods.

**Single Family Clustering.** A development design technique that concentrates single-family units in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

**Site plan.** A scaled drawing(s) illustrating existing conditions and containing the elements required herein as applicable to the proposed development to ensure compliance with this Zoning Code and the Code of Ordinances.

**Solar Energy Systems.** A solar collector or other device or structural design feature of a structure that relies upon sunshine as an energy source and is capable of collecting, distributing, and storing (if appropriate to the technology) the sun's radiant energy for a beneficial use.

- 1) **Ground-Mounted Solar.** A solar power installation where solar panels are placed on a structure anchored directly to the ground rather than attached to a building. These systems are free-standing and can be installed anywhere on a property with sufficient open space, such as a yard or field. Ground-mounted arrays are typically secured using metal racks or concrete foundations, and their orientation and tilt can be optimized for maximum sunlight exposure.
- 2) **Rooftop Solar.** A solar power setup where solar panels are mounted directly onto the roof of a residential, commercial, or industrial building. These systems utilize the existing roof structure for panel support and are generally designed to take advantage of unused roof space to generate electricity for on-site use. Rooftop systems are generally smaller than ground-mounted systems and are a common form of distributed energy generation.

**Special land use.** A use of land which is permitted within a particular zoning district only if the applicable standards have been met and a site plan has been approved.

**Specified anatomical areas.**

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

**Specified sexual activities.**

- 1) Human genitals in a state of sexual stimulation or arousal.
- 2) Acts, actual or simulated, of human masturbation, oral copulation, sexual intercourse or sodomy.
- 3) Fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast.

- 4) Human excretory functions as part of, or as related to, any of the activities described herein.
- 5) Physical violence, bondage, mutilation, or rape, actual or simulated, as part of or related to any of the activities described herein.

**Spire.** A tower that is a component of a building (normally a place of workshop); such tower occupying no more than 10 percent of the footprint of the building and having a height to width ratio of at least four-to-one (4:1).

**State Licensed Residential Facility.** A structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, or the Child Care Organizations Act, 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer individuals under supervision or care. These types of facilities include the following:

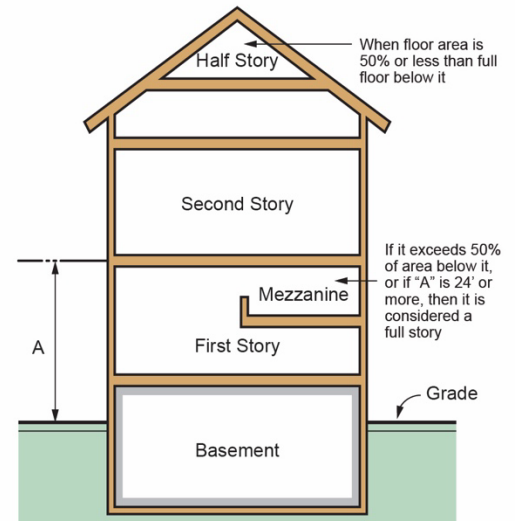
- 1) Adult Foster Care Family Home
- 2) Foster Family Home
- 3) Foster Family Group Home
- 4) A private residence with the capacity to receive at least 1 but not more than 4 adults who all receive benefits from a community mental health services program if the local community mental health services program monitors the services being delivered in the residential setting.

**Storage facility.** A facility where individual spaces, rooms, or units, inside or outside of a structure, are leased for the storage of personal property. The facility may include related ancillary uses such as the retail sales of packing, moving, and storage supplies. The types of storage facilities include the following:

- 1) **Indoor self-storage facility.** A building or group of buildings, each of which contains several individual storage units that can be leased on an individual basis and are accessed via a separate lockable door located along an interior corridor system.
- 2) **Outdoor storage facility.** An outdoor storage yard which contains a delineated location or space on the ground which can be leased on an individual basis for the storage of operable vehicles including, automobiles, boats, and recreational vehicles.
- 3) **Self-storage mini-warehouse facility.** A building or group of buildings, each of which contains several individual storage units that can be leased on an individual basis and are accessed via a separate lockable door located on the exterior wall of a building.

**Story.** That portion of a building, other than a mezzanine, included between the surface of any floor and the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. (See diagram: “Basic Structural Terms”.)

- 1) **Mezzanine.** An intermediate level between the floor and ceiling of any story. A mezzanine floor may be used in this definition of a full story when it covers more than 50 percent of the area of the story underneath said mezzanine, or, if the vertical distance from the floor next below it to the floor next above it is 24 feet or more.
- 2) **Basement.** For the purpose of this Ordinance, a basement shall be counted as a story if over 50 per cent of its height is above the level from which the height of the building is measured, or, if it is used for dwellings purposes by other than a janitor or domestic servants employed in the same building, including the family of the same.
- 3) **Half-story.** That part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half ( $\frac{1}{2}$ ) the floor area of said full story, provided the area contains at least 200 square feet with a clear height of at least seven (7) feet and six (6) inches. (See diagram: “Basic Structural Terms”).



**Basic Structural Terms**

- 4) **Street.** The public thoroughfare which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and other thoroughfare, except an alley.
- a) **Street, private.** A street not accepted by the City as a public thoroughfare or a street designated as a private street upon a recorded plat.
- b) **Street, public.** A street accepted by dedication or otherwise by the City.

**Studio (dance, art, photography).** An artist or worker's workroom. This can be for the purpose of acting, architecture, painting, pottery (ceramics), sculpture, origami, woodworking, scrapbooking, photography, graphic design, filmmaking, animation, industrial design, radio or television production broadcasting or the making of music. The term is also used for the workroom of dancers, often specified to dance studio.

**Street line.** The dividing line between the street and the lot.

**Structure** Anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground, including but not limited to advertising signs, billboards and poster panels; but exclusive of customary fences or boundary or retaining walls.

**Subdivision.** The division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer, or ownership, or building or lot development. The term shall include the resubdivision of land.

**Substantial portion.** A use or activity accounting for more than twenty (20) percent of any one or more of the following: stock-in-trade, sales revenue, display space, floor space, viewing time, movie display time, or entertainment time measured per month.

**Swimming pool.** Any structure or container located whether above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming. A swimming pool shall be considered as an accessory building for the purpose of determining required yard spaces and maximum lot coverage. Swimming pools are regulated by Chapter 5, Article V, of the City of Harper Woods Code of Ordinances.

**Temporary structure.** A structure without any foundation or footings and which is removed when the designated time period, activity or use for which the temporary structure was erected has ceased.

**Tent.** A shelter of canvas or the like supported by poles and fastened by cords or pegs driven into the ground and shall not include those types of tents used solely for children's recreational purposes.

**Townhouse.** A residential structure, or group of structures, each of which contains three (3) or more attached single-unit dwelling units with shared walls and individual rear yards and or front yards designed as an integral part of each dwelling unit.

**Trade Schools.** A specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills such as accounting, data processing, and computer repair. This classification excludes establishments providing training in an activity that is not otherwise permitted in the zone. Incidental instructional services in conjunction with another primary use shall not be considered a business and trade school.

**Transition facility or inpatient substance abuse treatment facility, private.** A privately owned and operated facility for substance abuse rehabilitation services and/or the readjustment of individuals involved with the justice system in a controlled environment with supervision and treatment or counseling provided on-site on an interim basis after referral from a public agency or institutional facility.

**Truck.** Any large motor vehicle used for commercial or public purposes, including tractor trailers and semi-trailers, as well as delivery vans and service trucks. .

**Use.** The purpose of which land or premises of a building thereon is designed, arranged, intended, or for which it is occupied, maintained, let, or leased.

- 1) **Accessory.** A use naturally and normally incidental to, subordinate to, and devoted exclusively to the main use of the premises.
- 2) **Legal nonconforming.** A use which lawfully occupied a building or land at the effective date of this Ordinance, or amendments thereto, that does not conform to the use regulations of the district in which it is located.
- 3) **Illegal nonconforming.** A use which does not conform to the use regulations of the district in which it is located, and which did not conform to said use regulations at the time it was established.
- 4) **Temporary.** A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

**Utility room.** A room in a dwelling, not located in the basement, the use of which is primarily for storage or for housing a heating unit, or for laundry purposes.

**Variance.** A modification of the literal provisions of the Zoning Ordinance which is granted by the Zoning Board of Appeals when strict enforcement would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. Hardships based solely on economic considerations are not grounds for a variance. Variances are regulated by Section 8.07.

**Vehicle sales establishment.** A retail establishment whose primary sales activities are for operable motor vehicles. This definition pertains to both fully enclosed retailers and establishments that merchandise vehicles that are stored outdoors. This definition also pertains to the sale of automobiles, recreational vehicles, and commercial vehicles, but does not pertain to motorized equipment such as lawnmowers or snowblowers.

**Vehicle fueling station.** That portion of property where fuel or charging time is purchased at retail to fuel motor vehicles and trucks, including gasoline and diesel fuels. This definition shall also apply to fueling stations for vehicles powered by non-petroleum products, such as electricity, hydrogen, or other alternative fuels. Such an establishment may include a building that sells other convenience items at retail and/or a freestanding automatic vehicle wash facility as accessory uses only.

**Vehicle service station.** A building or structure designed or used for the retail sale of lubricants, air, water and other operating commodities for motor vehicles, aircraft or boats, and including the customary space and facilities for the installation of such commodities on or in such vehicles, and includes space for facilities for the storage, minor repair, or servicing, but not including bumping, painting, refinishing, major repairs and overhauling, steam cleaning, rust proofing, where the primary use of the premises is such, or high-speed washing thereof, or sales of used cars, new cars, used trucks, new trucks, motorcycles or other land vehicle type, or sale unrelated to service station use. This definition does not apply to establishments that provide equipment for fueling or charging automobiles that do not have service facilities.

- 1) **Vehicle service station, minor.** An establishment providing primarily private passenger vehicle minor services completely within a building including quick lube businesses, car stereo alarm installation, auto detailing, glass/window repair or replacement. This definition shall not apply to establishments that provide automobile wash services.

- 2) **Vehicle service station, major.** An establishment providing primarily private passenger vehicle repair within completely enclosed buildings. Major motor vehicle services include body or fender bumping or painting shops, major motor repair including transmission work, and other vehicle repair services that do not meet the definition of "minor vehicle repair." Work is typically done over a several day period and vehicles are often left overnight for repair.

**Vehicle wash facility.** A building, or portion thereof, where automobiles or other vehicles are washed, either with the use of a chain conveyor and blower or through the manual use of cleaning and vacuuming equipment and having, as optional equipment, steam cleaning devices. This definition also pertains to vehicle wash establishments that are accessory to an automobile fueling station, but not to vehicle service facilities where some cleaning may be involved in the work undertaken, such as detailing or furniture repair.

- 1) **Automatic vehicle wash facility.** A vehicle wash facility where the vehicle is guided through an automated conveyor or drive-through bay, and automated equipment cleans and dries the vehicle. This definition also includes automatic vehicle wash facilities with other cleaning or drying services that are applied by facility employees or a vehicle operator or passenger.
- 2) **Manual vehicle wash facility.** A vehicle wash facility where cleaning is completed by a person, using equipment to clean and dry the vehicle. This definition pertains to both vehicle wash facilities where employees provide cleaning services and vehicle wash facilities that are self-service, where a vehicle operator or passenger uses equipment to clean the vehicle.

**Veterinary clinic or office.** An office of a duly licensed veterinary professional where diagnosis, treatment, surgery and other veterinary care for animals and other associated activities, which may include the temporary stay of animals receiving medical treatment, is conducted within a completely enclosed building. A veterinary clinic or office may include a kennel for the boarding of animals.

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

- 1) **Attached wireless communications facilities (antennae).** Wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.
- 2) **Colocation.** The location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennae within the City.
- 3) **Wireless communication support structures (tower).** Structures erected or modified to support wireless communication antennae. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

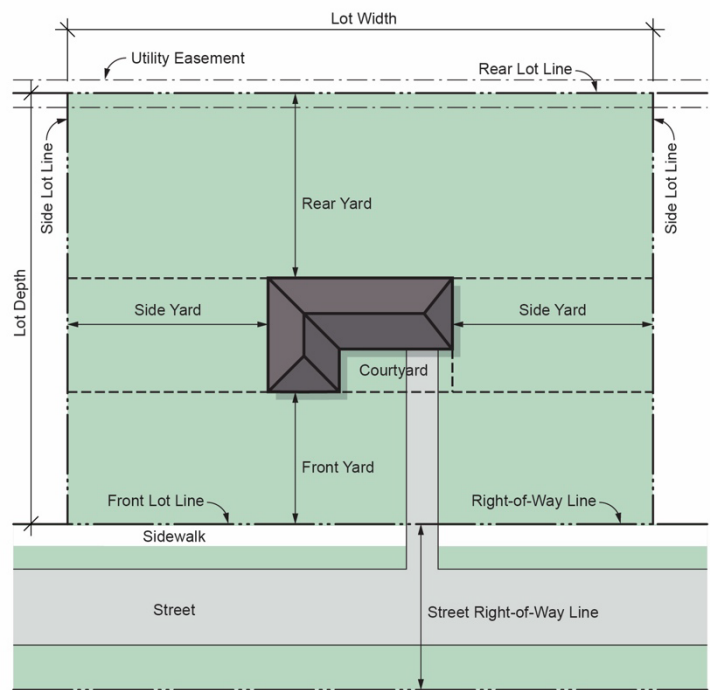
**Wholesale establishment.** An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to

other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**Xeriscape.** A landscaping method that utilizes water-conserving techniques such as the planting of drought-tolerant or arid climate plants, efficient irrigation methods, and mulch.

**Yard.** An open space of prescribed width or depth on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein. (See diagram: “Yard Terms – Interior Lot”)

- 1) **Yard, front.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the main building.
- 2) **Yard, rear.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the main building.
- 3) **Yard, required front.** A yard extending across the full width of the lot, the depth of which is the horizontal distance between the front lot line and the minimum required or maximum allowed front setback line.
- 4) **Yard, required rear.** A yard extending across the full width of the lot, the depth of which is the horizontal distance between the rear lot line and the minimum required rear setback line.
- 5) **Yard, required side.** A yard between the side lot line and the minimum required side setback line extending from the required front yard to the required rear yard.
- 6) **Yard, side.** A yard between a main building and the side lot line, extending from the front yard to the rear yard. The width of the side yard shall be measured horizontally from the nearest point of the main building to the side lot line.



**Yard Terms – Interior Lot**

**Zoning Board of Appeals (ZBA).** The City of Harper Woods, Zoning Board of Appeals.



## Article 3.

# Districts and Uses

### Section 3.01 Zoning Districts and Overlays

The City of Harper Woods is hereby divided into districts, plus one overlay area:

- A. R-1 Low-Density Residential District
- B. R-2 Moderate-Density Residential District
- C. R-3 Medium-Density Residential District
- D. MU-1 Moderate-Density Mixed Use District
- E. MU-2 Medium-Density Mixed Use District
- F. C-R Regional Commercial District
- G. HB Height Bonus Overlay District

Table 3.A outlines the zoning districts and their intent statements.

**Table 3.A – Zoning Districts**

Code	Zoning District	Intent Statement
R-1	<b>Low-Density Residential</b>	Promotes a harmonious mixture of single-family houses, and related educational, cultural, and religious land uses in a basically residential environment. The R-1 district allows for larger lot sizes and yard setbacks to promote more open space single-family homes. Smaller medium density housing may be permitted where compatible and appropriate via special land use approval, while still maintaining a primarily single-family character.
R-2	<b>Moderate-Density Residential</b>	Promotes a harmonious mixture of single-family houses and related educational, cultural, and religious land uses in a basically residential environment. Smaller medium density housing may be permitted where compatible and appropriate via special land use approval, while still maintaining a primarily single-family character.
R-3	<b>Medium-Density Residential</b>	Permits residential use of land with multiple family dwellings. The areas should be located near major streets for good accessibility and designed to complement adjacent single-family areas. This district accommodates a variety of housing typologies, including single-family houses and extending to a variety of medium density and multi-family housing types.
MU-1	<b>Moderate-Density Mixed Use</b>	This district is intended to permit a mixture of retail, service uses, and live-work or other residential over commercial uses in development that is of a scale accessible and desirable to the pedestrian. The district is intended to provide transitional areas between lower-intensity residential uses and higher-intensity commercial and uses and transportation corridors.
MU-2	<b>Medium-Density Mixed Use</b>	This district is the City's more intense mixed-use commercial and residential district. It is intended to incorporate mixed uses to promote walkability, livability and economic growth, primarily along Kelly Road. This district is intended to provide for development that facilitates denser multi-family living arrangements in conjunction with commercial land uses that facilitate heavier pedestrian and vehicle traffic.
C-R	<b>Regional Commercial</b>	Allows for a variety of commercial uses that aims to serve the greater region, beyond neighborhood services, and often entails higher demands on traffic and land area. This district permits land uses where buildings have large footprints and may experience significant pedestrian, personal vehicle, and truck traffic. This district also permits large-scale uses such as regional shopping centers and some light industrial uses. These areas are primarily located along Vernier Road and at major intersections throughout the City.
HB	<b>Height Bonus Overlay</b>	Allows for added residential uses and increases above the height limit in the underlying zoning district, provided that the additional floors added are for residential dwelling units. This zone is primarily intended for areas where the development of multi-unit residences is consistent with the surrounding districts and land uses.

## Section 3.02 Zoning Map

The boundaries of these districts are shown upon the map attached hereto and made a part of this Chapter which map is designated as the Zoning Map of the City of Harper Woods. The Zoning Map attached hereto and on file in the office of the Clerk of the City of Harper Woods and all notations, references, and other information shown thereon are a part of this Chapter and have the same force and effect as if said Zoning Map and all such notations, references, and other information shown thereon were fully set forth or described herein.

Regardless of the existence of purported copies of the Zoning Map which may, from time to time, be made or published, the Zoning Map shall be located in the Office of the City Clerk and shall be the final authority as to the current zoning status of all land and water areas, buildings, and other structures in the City.

### Section 3.03 Interpretation of District Boundaries

Unless otherwise shown, the boundaries of the districts are lot lines, the center lines of streets or alleys, or such lines extended, and the limits of the City of Harper Woods.

- A. Where a district boundary line, as established in this Section or as shown on the Zoning Map, divides a lot which was in single ownership and of record at the time of enactment of this Ordinance, the use authorized thereon and the other district requirements applying to the least restricted portion of such lot, under this Ordinance, shall be considered as extending to the entire lot, provided that the more restricted portion of such lots is entirely within twenty five (25) feet of said dividing district boundary line. The use so extended shall be deemed to be conforming.
- B. Where due to the scale, lack of detail or illegibility of the Zoning Map of this Ordinance, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundary lines, said lines shall be interpreted upon written request, or upon its own motion, by the Zoning Board of Appeals, after recommendation by the Planning Commission.
- C. In unsubdivided property, or where a district boundary divides a lot of record, the location of such boundary, unless shown by dimensions of the Zoning map, shall be determined by use of the map scale shown thereon.

### Section 3.04 Zoning of Vacated Areas

Whenever any street, alley or other public way within the City shall be vacated, such street, alley or other public way or portion thereof, shall automatically be classified in the same zoning district as the property to which it is attached.

### Section 3.05 Zoning of Street and Alley Rights-of-Way (ROW)

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

### Section 3.06 Application of This Ordinance

Except as otherwise provided in this Ordinance, the construction of buildings and use of land shall conform to the specific provisions for the zoning districts involved. No land shall be redeveloped or use commenced, expanded or continued within the City except as specifically, or by necessary implication, authorized by this Ordinance. Lawful nonconforming structures and uses existing at the time of passage of this Ordinance are specifically governed by *Article 7, Nonconformities*, and generally governed by this Ordinance.

### Section 3.07 Determination of Land Uses Not Listed in This Ordinance

It is recognized that this Ordinance may require interpretation to assign certain uses to individual districts. Therefore, any use which is not specifically set forth in this Ordinance shall be reviewed by the Zoning Administrator for consistency with the intent set forth in each district and for compatibility with use characteristics typical of uses permitted within those districts. Based upon this review, the Zoning Administrator shall determine the appropriate district for any use which is not specifically set forth herein. In case of disagreement with the

determination of the Zoning Administrator in assigning a use to an appropriate district, any aggrieved party may file an appeal with the Zoning Board of Appeals pursuant to the provisions of [Section 8.07](#) of this Ordinance.

### Section 3.08 Table of Land Uses by Zoning District

- A. Permissive Zoning.** Land uses are permitted specifically in the various zoning districts of this Ordinance as listed in Table 3.B. Where not specifically permitted, uses are thereby specifically prohibited unless construed to be similar to a use expressly permitted as outlined in [Sec. 3.07](#). No land contained within any zoning district within the City of Harper Woods shall be used for any purpose other than those uses specifically set forth in the following sections, except as permitted by [Article 7, Nonconformities](#) or as interpreted by the Zoning Administrator and outlined in Sec. 3.07. A blank cell in Table 3.B means that the use is not permitted in the corresponding district.
- B. Principal Permitted Uses.** Within each zoning district there are uses which when developed in accordance with sound planning and site plan principles are consistent with the purpose and objectives of the district. For the purpose of this Ordinance these uses shall be known as “principal permitted uses,” or “uses permitted by right”, set forth in the individual district as identified in Table 3.B with a “P” in the corresponding row and column and shall be allowed within that particular district subject to the development requirements for the district.
- C. Special Land Uses.** Within each zoning district there are uses which may be consistent with the purpose and objectives of the particular zoning district only in specific locations, under specific conditions and when developed in accordance with sound planning and site plan principals. For the purpose of this Ordinance these uses shall be known as "Special Land Uses" as set forth in the individual district as identified in Table 3.B with an “S” in the corresponding row and column and shall be allowed within that particular district subject to the development requirements for the district and conditions deemed necessary and appropriate by the Planning Commission, provided the Planning Commission finds the proposed use meets the criteria set forth in [Section 8.03](#).

**Table 3.B – Land Uses by Zoning District.**

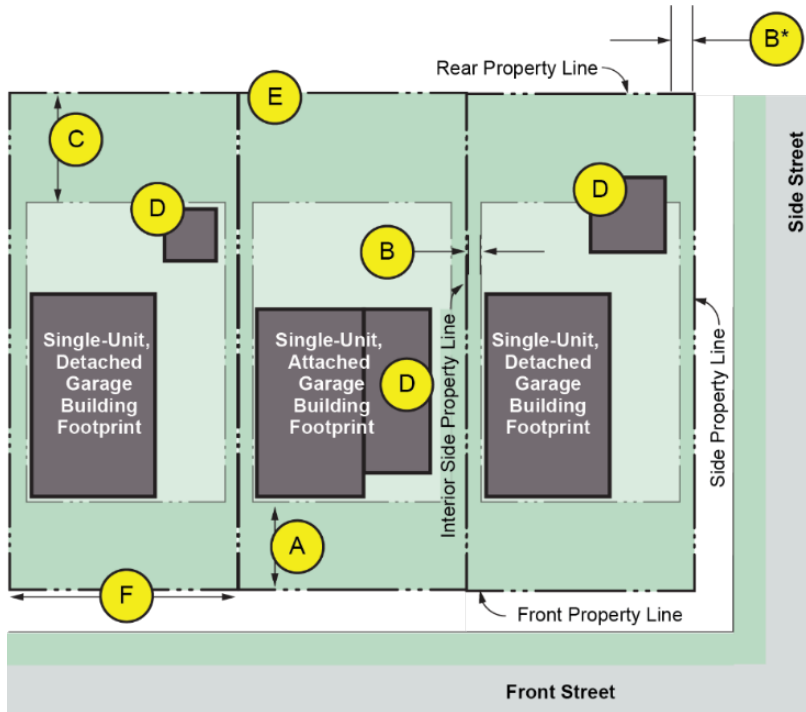
Land Use	R-1	R-2	R-3	MU-1	MU-2	C-R	Additional Use Standards
<b>Residential and Care Facilities</b>							
<b>Adult Foster Care Facilities:</b>							
Family Home (Defined, p. 6)	P	P					
Small Group Home (Defined, p. 6)		SLU	SLU				
Large Group Home (Defined, p. 6)			SLU				
Congregate Care Facility (Defined, p. 6)			SLU				
<b>Child Care Facilities:</b>							
• Foster Family Home (Defined, p. 10)	P	P	P				(See Sec 6.09)
• Foster Family Group Home (Defined, p. 10)	P	P	P				(See Sec 6.09)
• Family Child Care Home (Defined, p. 10)	P	SLU	SLU				(See Sec. 6.04)
• Group Child Care Home (Defined, p. 10)	SLU	SLU	SLU				(See Sec. 6.04)
Dwelling, Attached Accessory Unit (Defined, p. 15)	P	P	P		P		(See Sec. 6.01)
Dwelling, Detached Accessory Unit (Defined, p. 15)	SLU	SLU	P		P		(See Sec. 6.01)
Dwelling, Cottages / Cottage Court (Defined, p. 14)	SLU	SLU	P				(See Sec. 6.20)
Dwelling, Single Unit (Defined, p. 15)	P	P	P				(See Sec. 6.18)
Dwelling, Two Unit (Duplex) (Defined, p. 15)	SLU	SLU	P	P	P		(See Sec. 6.18)
Dwelling, Three Unit (Triplex) (Defined, p. 15)	SLU	SLU	P	P	P		(See Sec. 6.18)
Dwelling, Four Unit (Quadplex) (Defined, p. 15)	SLU	SLU	P	P	P		(See Sec. 6.17)
Dwelling, Multiple Unit (Defined, p. 15)			P	P	P	P	
Hospice (Defined, p. 19)	SLU	SLU	SLU	P	P		
Live-Work (Defined, p. 20)			P	P	P	P	
Nursing and Convalescent Care Facilities (Defined, p. 23)	SLU	SLU	SLU	P	P		(See Sec. 6.22)
Single-Family Clustering (Defined, p. 28)	SLU	SLU	SLU				(See Sec. 6.27)
<b>Commercial Uses</b>							
Adult Day Care Facility (Defined, p. 6)				P		P	(See Sec 6.09)
Adult-Oriented Uses (Defined, p. 4)						SLU	(See Sec. 6.02)
Banks, credit unions, and savings banks without drive thru facilities (Defined, p.7)				P	P	P	
Bars and taverns (Defined, p. 7)				P	P	P	
Bed and Breakfast Establishment (Defined, p. 7)		SLU	SLU	P	P		(See Sec. 6.03)
Brewery / Distillery / Tap Room / Tasting Room (Defined, p. 8)				P	P	P	
Child Care Center (Defined, p. 10)				P	P	P	(See Sec. 6.04)
Cigar Lounges, Smoking Lounges and Smoke Shops (Defined, p. 11)				SLU	SLU	P	(See Sec. 6.05)
Clubs and Lounges (Defined, p. 12)				SLU	SLU	P	
Contractor's Storage Yard (Defined, p. 14)						SLU	
Convenience Store (Defined, p. 14)				P	P	P	(See Sec. 6.06)
Drive-Through Facility (Defined, p. 15)						SLU	(See Sec. 6.07)
Event Hall / Banquet Hall (w/ kitchen) (Defined, p. 16)						SLU	(See Sec. 6.08)
Funeral Homes / Mortuaries (Defined, p. 18)				P		P	(See Sec. 6.10)

Land Use	R-1	R-2	R-3	MU-1	MU-2	C-R	Additional Use Standards
Ghost Kitchen, Accessory (Defined, p. 18)				SLU	SLU	P	(See Sec. 6.11)
Ghost Kitchen, Principal (Defined, p. 18)						SLU	(See Sec. 6.11)
Health / Fitness Club (Defined, p. 19)				P	P	P	(See Sec. 6.12)
Home Occupation (Defined, p. 19)	P	P	P	P	P	P	
Hotels / Motels (Defined, p. 19-20)					SLU	SLU	(See Sec. 6.16)
Indoor commercial recreation establishments (Defined, p. 25)						SLU	
Kennel (Defined, p. 20)						SLU	(See Sec. 6.14)
Marijuana Establishments (Defined, p. 22)				SLU	SLU		(See Sec. 6.15)
Massage Establishments (Defined, p. 22)						SLU	
Medical office / clinics (Defined, p. 22)				P	P	P	
Offices (business and professional services) (Defined, p. 23)				P	P	P	
Open Air Businesses (Defined, p. 24)						SLU	(See Sec. 6.23)
Personal Service Establishments (Defined, p. 25)				P	P	P	
Restaurant (Defined, p. 26)				P	P	P	
Retail Store (Defined, p. 26)				P	P	P	
Self-Storage Facility with Ground Floor Retail (Defined, p. 29)					SLU	SLU	
Self-Storage Facility, (Indoor, Mini-Warehouse) (Defined, p. 29)						SLU	(See Sec. 6.26)
Shopping Center (Defined, p. 28)				P	P	P	
Short-term Rentals (Defined, p. 28)	P	P	P				
Studio (Art, Photography, Dance, etc.) (Defined, p.31)				P	P	P	
Transition Facility or Inpatient Substance Abuse Treatment Facility, Private (Defined, p. 31-32)					SLU	P	
Vehicle Fueling stations (Defined, p.32)						SLU	(See Sec. 6.29)
Vehicle Service Station, Minor (Defined, p. 32-33)						P	(See Sec. 6.31)
Vehicle Repair Station, Major (Defined, p. 33)						SLU	(See Sec. 6.32)
Vehicle Sales Establishments (Defined, p. 32)						SLU	(See Sec. 6.30)
Vehicle Wash Establishment (Defined, p. 33)						SLU	(See Sec. 6.33)
Veterinarian establishment, including animal clinic and boarding (Defined, p. 33)				P	P	P	
<b>Industrial Uses</b>							
General fabrication and assembly operations (Defined, p. 18)						SLU	
Outdoor Storage (Defined, p. 24)						SLU	
Recycling Center (Defined, p. 26)						SLU	
Research and Development Establishments (Defined, p. 26)					SLU	P	
Trade and industrial schools (Defined, p. 31)				SLU		P	
Warehousing, storage or transfer buildings, excluding storage of bulk petroleum in above ground tanks						SLU	
Wholesale establishments, including automotive parts, drugs, chemical dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products, furnishings, lumber, and building products (Defined, p. 34)						P	
<b>Public and Quasi-Public Uses</b>							
Garages, community (Defined, p. 18)		SLU	SLU	P	P	P	
Garages, public (Defined, p. 18)				SLU	SLU	SLU	

Land Use	R-1	R-2	R-3	MU-1	MU-2	C-R	Additional Use Standards
Hospitals (Defined, p. 19)						SLU	(See Sec. 6.13)
Institutional (Schools, Civic Centers) (Defined, p. 20)			P	P	P	P	
Museums			P	P	P	P	
Parks, playgrounds and playfields (Defined, p. 24)	P	P	P	P	P	P	
Places of Worship (Defined, p. 25)			P	P	P	P	(See Sec. 6.24)
Public and Semi-public Institutional Buildings and Uses (Defined, p. 25 & 27)	P	P	P	P	P	P	
Public Utility Buildings (Defined, p. 25)	P	P	P			P	
Wireless Communications Facilities (Defined, p. 33)						SLU	
<b>Accessory Uses</b>							
Electric Vehicle Chargers (Defined, p. 16)	P	P	P	P	P	P	(See Sec. 5.02)
Garages, private (Defined, p. 18)	P	P	P	P	P	P	(See Sec. 5.02)
Ground-Mounted Solar (Defined, p. 28)	P	P	P	P	P	P	(See Sec. 5.02)
Parking Lots	SLU	SLU	P	P	P	P	(See Sec. 5.04)
Murals (Defined, p. 23)				SLU	P	P	
Outdoor Dining (Defined, p. 24)				P	P	P	(See Sec. 5.02)
Rooftop Solar (Defined, p. 28)	P	P	P	P	P	P	
Swimming Pools (Defined, p. 31)	P	P	P	P	P	P	

## Section 3.09 R-1 Low-Density Residential District

**A. Intent statement.** Promotes a harmonious mixture of single-family houses, and related educational, cultural, and religious land uses in a basically residential environment. The R-1 district allows for larger lot sizes and yard setbacks to promote more open space single-family homes. Smaller medium-density housing may be permitted where compatible and appropriate via special land use approval, while still maintaining a primarily single-family character.



### B. Dimensional Standards

Dimensional Standards			
<b>A</b>	Front Yard Setback	Minimum:	25-feet (i)
<b>B</b>	Side Yard Setback	Minimum (One):	5-feet
		Minimum (Total of Two):	14-feet
		Adjacent to a Street:	20-feet
<b>C</b>	Rear Yard Setback	Minimum:	35-feet
<b>D</b>	Accessory Buildings	See <a href="#">Section 5.03: Accessory Buildings, Structures and Uses</a> .	
<b>E</b>	Lot Size	Minimum:	9,600 square feet
<b>F</b>	Lot Width	Minimum:	80-feet
<b>G</b>	Building Height	Maximum:	30-feet, 2 Stories
	Lot Coverage	Maximum:	35%

#### Additional District Standards

For all residential uses: 50% of the front yard and 50% (of the total) of the two side yards must be maintained as landscaped, green space. Permeable pavers or other semi-hardscape materials are not considered a landscaped, green space.

For accessory structures, see [Section 5.03: Accessory Buildings, Structures and Uses.](#)

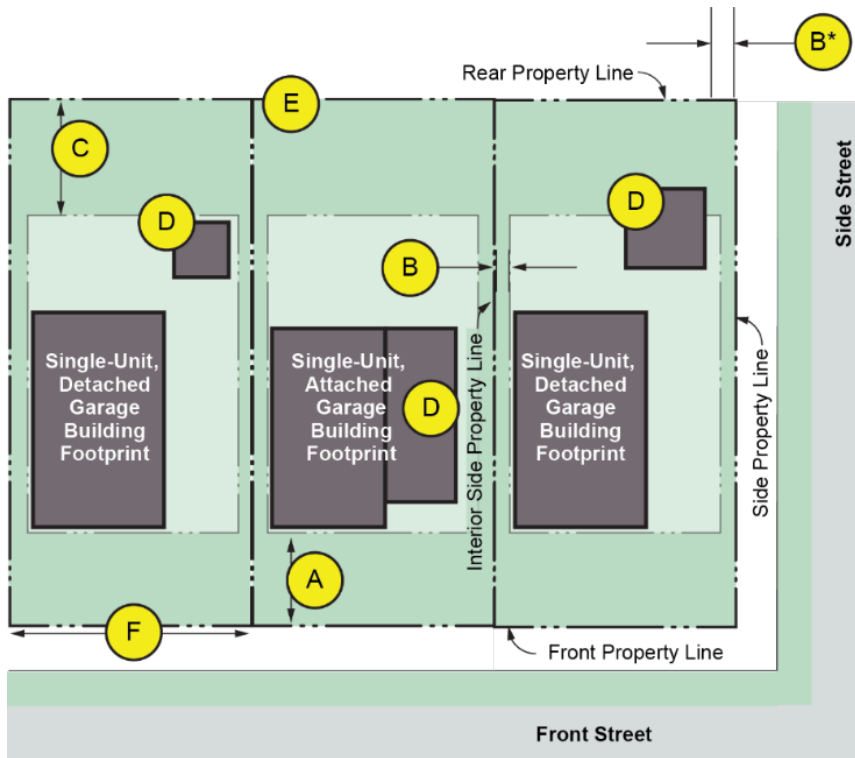
For allowable projections into the required yard, see [Section 4.15: Projections into Yards.](#)

For clarity on terms, see [Article 2: Definitions.](#)

- C. **Uses permitted by right.** See [Section 3.08 Figure 3.B](#): Table of Land Uses by Zoning District for a complete list.
- D. **Uses permitted by special land use permit approval.** See [Section 3.08 Figure 3.B](#): Table of Land Uses by Zoning District for a complete list.
- E. **Uses requiring site plan review.** See [Section 8.02 Plan Review for Uses and Structures](#) for the conditions that trigger the requirement for site plan review for a land use or structure.
- F. **Site development standards.** See [Article 5 Site Development Standards](#) for applicable requirements for uses and structures.
- G. **Additional use standards.** See [Article 6 Use Standards](#) for applicable requirements for uses and structures permitted in this district.

## Section 3.10 R-2 Moderate-Density Residential District

**A. Intent statement.** Promotes a harmonious mixture of single-family houses and related educational, cultural, and religious land uses in a basically residential environment. Smaller medium-density housing may be permitted where compatible and appropriate via special land use approval, while still maintaining a primarily single-family character.



### B. Dimensional Standards

Dimensional Standards			
<b>A</b>	<b>Front Yard Setback</b>	<b>Minimum:</b>	25-feet (i)
<b>B</b>	<b>Side Yard Setback</b>	<b>Minimum (One):</b>	4-feet
		<b>Minimum (Total of Two):</b>	13-feet
		<b>Adjacent to a Street:</b>	6-feet
<b>C</b>	<b>Rear Yard Setback</b>	<b>Minimum:</b>	35-feet
<b>D</b>	<b>Accessory Buildings</b>	See <a href="#">Section 5.03: Accessory Buildings, Structures and Uses</a> .	
<b>E</b>	<b>Lot Size</b>	<b>Minimum:</b>	9,600 square feet
<b>F</b>	<b>Lot Width</b>	<b>Minimum:</b>	80-feet
<b>G</b>	<b>Building Height</b>	<b>Maximum:</b>	30-feet, 2 Stories

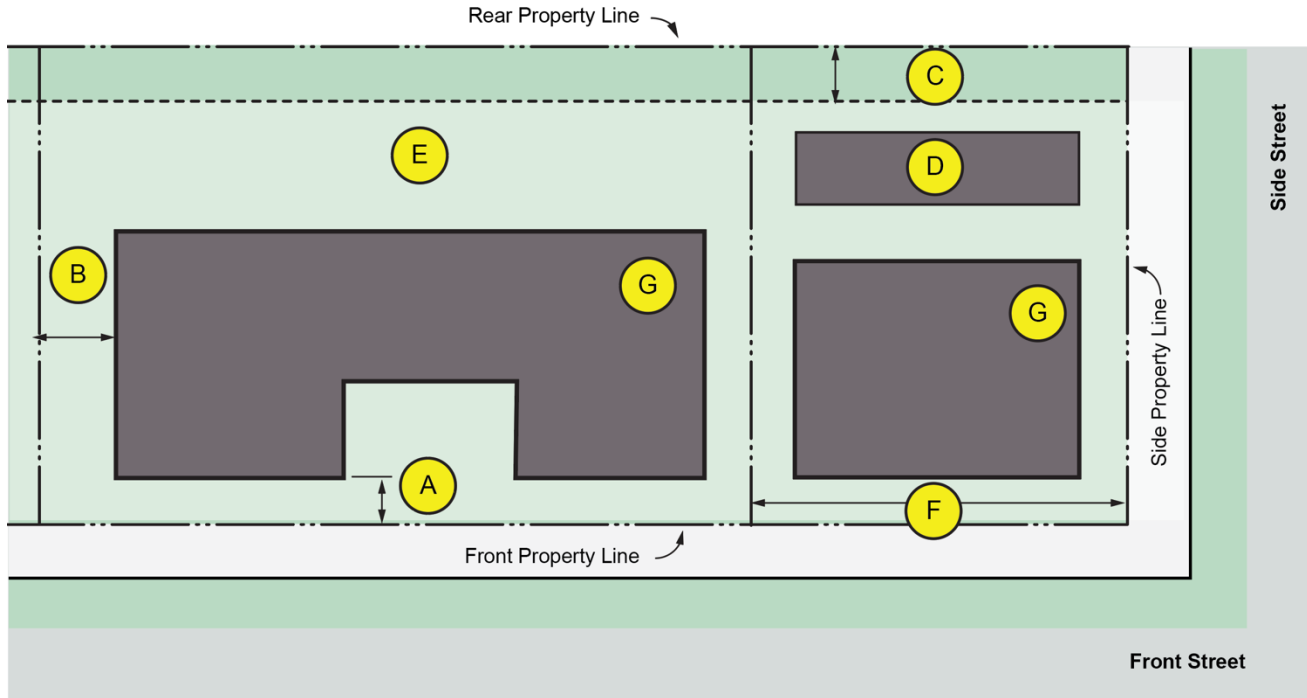
<b>Maximum Lot Coverage</b>	<b>Maximum:</b>	<b>35%</b>
<b>Additional District Standards</b>		
<p>The minimum floor area for a single-unit dwelling unit shall be at least 800 square feet not including the area of basements, breezeways, unenclosed porches, terraces, attached garages, attached sheds or utility rooms.</p> <p>For all residential uses: 50% of the front yard and 50% (of the total) of the two side yards must be maintained as landscaped, green space. Permeable pavers or other semi-hardscape materials are not considered a landscaped, green space.</p> <p>For accessory structures, see <a href="#">Section 5.03: Accessory Buildings, Structures and Uses.</a></p> <p>For allowable projections into the required yard, see <a href="#">Section 4.15: Projections into Yards.</a></p> <p>For clarity on terms, see <a href="#">Article 2: Definitions.</a></p>		

- C. Uses permitted by right.** See [Section 3.08 Figure 3.B: Table of Land Uses by Zoning District](#) for a complete list.
- D. Uses permitted by special land use permit approval.** See [Section 3.08 Figure 3.B: Table of Land Uses by Zoning District](#) for a complete list.
- E. Uses requiring site plan review.** See [Section 8.02 Plan Review for Uses and Structures](#) for the conditions that trigger the requirement for site plan review for a land use or structure.
- F. Site development standards.** See [Article 5 Site Development Standards](#) for applicable requirements for uses and structures.
- G. Additional use standards.** See [Article 6 Use Standards](#) for applicable requirements for uses and structures permitted in this district.

## Section 3.11 R-3 Medium-Density Residential District

**A. Intent statement.** Permits residential use of land with multiple family dwellings. The areas should be located near major streets for good accessibility and designed to complement adjacent single-family areas. This district accommodates a variety of housing typologies, including single-family houses and extending to a variety of small medium-density and multi-family housing types.

### B. Dimensional Standards



Dimensional Standards			
<b>A</b>	<b>Front Yard Setback</b>	<b>Minimum:</b>	25 ft.
<b>B</b>	<b>Side Yard Setback</b>	<b>Minimum (One):</b>	4 ft. (e)
		<b>Minimum (Total of Two):</b>	13 ft.
		<b>Adjacent to a Street:</b>	20 ft.
<b>C</b>	<b>Rear Yard Setback</b>	<b>Minimum:</b>	35 ft.
<b>D</b>	<b>Accessory Building Standards</b>	See <a href="#">Section 5.03: Accessory Buildings, Structures and Uses.</a>	
<b>E</b>	<b>Lot Size</b>	<b>Minimum:</b>	7,500 sq. ft.(b)
<b>F</b>	<b>Lot Width</b>	<b>Minimum:</b>	50 ft.
<b>G</b>	<b>Building Height</b>	<b>Maximum:</b>	2 ½ stories, 35 ft.
	<b>Maximum Lot Coverage</b>	<b>Maximum:</b>	35%

For clarity on terms, see [Article 2: Definitions](#).

**Additional District Standards**

- a. The minimum floor area for a single-unit dwelling unit shall be at least 800 square feet not including the area of basements, breezeways, unenclosed porches, terraces, attached garages, attached sheds or utility rooms.
- b. No multi-unit structure shall be erected on a lot or parcel which has a width of less than eighty (80) feet or an area of less than eight thousand (8,000) square feet. In the R-3 district, a minimum amount of land area shall be required for each unit in a multi-unit structure based on the following:

Dwelling Unit Type	Minimum Lot Area per Unit (in Sq. Feet)
Efficiency, one-bedroom or two-bedroom unit	3,000
Three or more bedrooms per unit	4,200

- c. Minimum floor area for each unit in a multi-unit structure shall be:

Dwelling Unit Type	Minimum Floor Area (Sq. Feet)
Efficiency	500
One-bedroom unit	600
Two-bedroom unit	800
Three-bedroom unit	1,000
Four or more bedroom unit	1,100

- e. No principal building shall be constructed closer than 10 feet to any existing building upon on adjoining lot. In the case of a corner lot whose rear yard abuts a side yard of an adjacent lot, the side yard of the corner lot abutting the shared street shall not be less than 15 feet.

- C. **Uses permitted by right.** See [Section 3.08 Figure 3.B](#):: Table of Land Uses by Zoning District for a complete list.
- D. **Uses permitted by special land use permit approval.** See [Section 3.08 Figure 3.B](#):: Table of Land Uses by Zoning District for a complete list.
- E. **Uses requiring site plan review.** See [Section 8.02 Plan Review for Uses and Structures](#) or Renovations and New Construction for the conditions that trigger the requirement for site plan review for a land use or structure.
- F. **Site development standards.** See [Article 5 Site Development Standards](#) for applicable requirements for uses and structures.
- G. **Additional use standards.** See [Article 6 Use Standards](#) for applicable requirements for uses and structures permitted in this district.

## Section 3.12 MU-1 Moderate-Density Mixed Use District

**A. Intent statement.** This district is intended to permit a mixture of retail, service uses, and live-work or other residential over commercial uses in development that is of a scale accessible and desirable to the pedestrian. The district is intended to provide transitional areas between lower-intensity residential uses and higher-intensity commercial and uses and transportation corridors.

### B. Dimensional Standards

Dimensional Standards		
Front Yard Setback	Minimum:	--
	Minimum:	--
Rear Yard Setback	Minimum:	--
Lot Size	Minimum:	--
Lot Width	Minimum:	--
Building Height	Maximum:	2 stories, 30 ft.
Maximum Lot Coverage	Maximum:	--

### Additional District Standards

c. Minimum floor area for each unit in a multi-unit structure shall be:

Dwelling Unit Type	Minimum Floor Area (Sq. Feet)
Efficiency	500
One-bedroom unit	600
Two-bedroom unit	800
Three-bedroom unit	1,000
Four or more bedroom unit	1,100

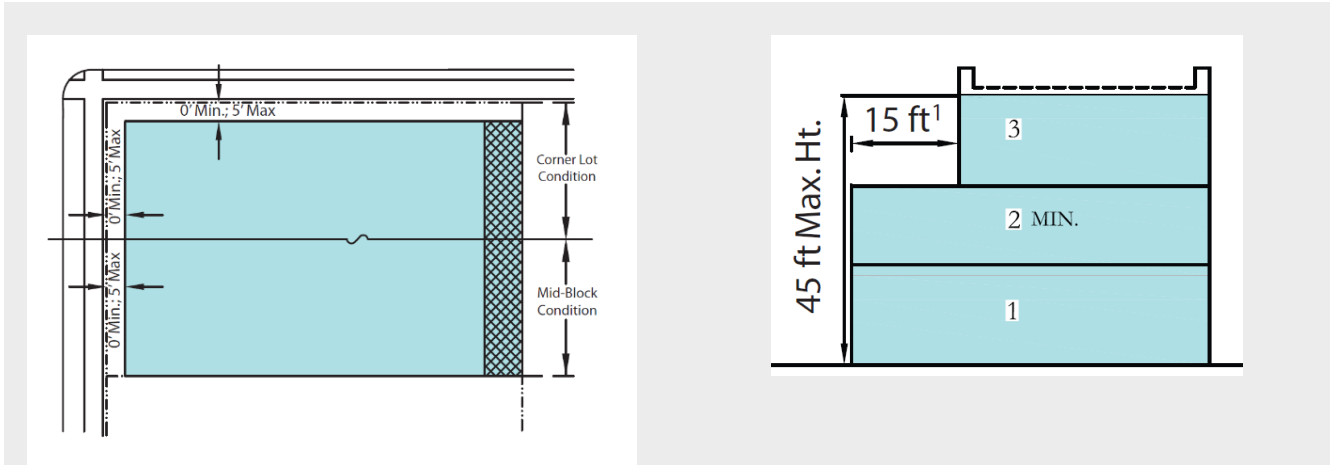
d. Lots zoned MU-1, MU-2 and C-R adjacent to any R-1, R-2 or R-3 lots shall provide a minimum 10 foot setback along any shared property line.

f. No commercial building shall be erected or altered in the MU-1, MU-2 or C-R district having a first floor area of less than 800 square feet unless otherwise approved by the Zoning Board of Appeals.

- C. Uses permitted by right.** See [Section 3.08 Figure 3.B](#): Table of Land Uses by Zoning District for a complete list.
- D. Uses permitted by special land use permit approval.** See [Section 3.08 Figure 3.B](#): Table of Land Uses by Zoning District for a complete list.
- E. Uses requiring site plan review.** See [Section 8.02 Plan Review for Uses and Structures](#) or Renovations and New Construction for the conditions that trigger the requirement for site plan review for a land use or structure.
- F. Site development standards.** See [Article 5 Site Development Standards](#) for applicable requirements for uses and structures.
- G. Additional use standards.** See [Article 6 Use Standards](#) for applicable requirements for uses and structures permitted in this district.

### Section 3.13 MU-2 Medium-Density Mixed Use District

- A. Intent statement.** This district is the City’s more intense mixed-use commercial and residential district. It is intended to incorporate mixed uses to promote walkability, livability and economic growth, primarily along Kelly Road. This district is intended to provide for development that facilitates denser multi-family living arrangements in conjunction with commercial land uses that facilitate heavier pedestrian and vehicle traffic.
- B. Dimensional Standards**



Dimensional Standards	
<b>Front Yard Setback</b>	<b>Minimum:</b> Zero (0) Feet <b>Maximum:</b> Five (5) Feet
<b>Side Yard Setback</b>	<b>Mid-Block/Interior Side Lot Line Minimum:</b> When building wall is solid with no openings: Zero (0) Feet When building wall has a door or window opening: Five (5) feet.
	<b>Adjacent to a Street Minimum:</b> Zero (0) Feet <b>Adjacent to a Street Maximum:</b> Five (5) Feet
<b>Rear Yard Setback</b>	<b>Minimum:</b> Zero (0) Feet <b>Maximum:</b> Five (5) Feet
<b>Building Height</b>	<b>Minimum:</b> 30 Feet and Two (2) stories <b>Maximum:</b> 45 Feet and Three (3) stories Footnote 1: Third floor shall be setback 15 ft from any rear lot line adjacent to a residentially zoned lot.
<b>Maximum Lot Coverage</b>	<b>Maximum:</b> --

For clarity on terms, see [Article 2: Definitions](#).

**Additional District Standards**

c. Minimum floor area for each unit in a multi-unit structure shall be:

Dwelling Unit Type	Minimum Floor Area (Sq. Feet)
Efficiency	500
One-bedroom unit	600
Two-bedroom unit	800
Three-bedroom unit	1,000
Four or more bedroom unit	1,100

d. Lots zoned MU-1, MU-2 and C-R adjacent to any R-1, R-2 or R-3 lots shall provide a minimum 10 foot setback along any shared property line.

f. No commercial building shall be erected or altered in the MU-1, MU-2 or C-R district having a first floor area of less than 800 square feet unless otherwise approved by the Zoning Board of Appeals.

**Site Plan Requirements**

- C. Uses permitted by right.** See *Section 3.08 Figure 3.B*:: Table of Land Uses by Zoning District for a complete list.
- D. Uses permitted by special land use permit approval.** See *Section 3.08 Figure 3.B*:: Table of Land Uses by Zoning District for a complete list.
- E. Uses requiring site plan review.** See *Section 8.02 Plan Review for Uses and Structures* or Renovations and New Construction for the conditions that trigger the requirement for site plan review for a land use or structure.
- F. Site development standards.** See *Article 5 Site Development Standards* for applicable requirements for uses and structures.
- G. Additional use standards.** See *Article 6 Use Standards* for applicable requirements for uses and structures permitted in this district.

## Section 3.14 C-R Regional Commercial District

- A. Intent statement.** Allows for a variety of commercial uses that can facilitate high demands on traffic and land area. This district permits land uses where buildings have large footprints and may experience significant pedestrian, personal vehicle, and truck traffic. This district includes large-scale developments that serve as a buffer and transition from industrial uses. This district also permits large-scale uses such as regional shopping centers and some industrial uses. These areas are primarily located along Vernier Road and at major intersections throughout the City.
- B. Dimensional Standards**
- C. Uses permitted by right.** See *Section 3.08 Figure 3.B*: Table of Land Uses by Zoning District for a complete list.
- D. Uses permitted by special land use permit approval.** See *Section 3.08 Figure 3.B*: Table of Land Uses by Zoning District for a complete list.
- E. Uses requiring site plan review.** See *Section 8.02 Plan Review for Uses and Structures* or Renovations and New Construction for the conditions that trigger the requirement for site plan review for a land use or structure.
- F. Site development standards.** See *Article 5 Site Development Standards* for applicable requirements for uses and structures.
- G. Additional use standards.** See *Article 6 Use Standards* for applicable requirements for uses and structures permitted in this district.

## Section 3.15 HB Height Bonus Overlay District

- A. Intent statement.** The HB Overlay allows for added residential uses and increases above the height limit in the underlying zoning district, provided that the additional floors added are for residential dwelling units. This zone is primarily intended for areas where the development of multi-unit residences is consistent with the surrounding districts and land uses.
- B. Permitted Location.** The Height Bonus Overlay District shall only apply to parcels designated as such on the Zoning Map.
- C. Height bonuses.** Development projects within a property with the Height Bonus Overlay may receive a bonus height allowance above the maximum if residential land uses are included in the project. To qualify for this bonus, the development shall include one or more dwelling units, as defined as “Residential / Dwelling Uses” in [Sec. 3.07](#) of the Zoning Ordinance. The amount of additional height shall be determined by one of the following criteria:
1. Where at least ten (10) percent of the Gross Floor Area (GFA) is designed and committed to residential use, a bonus height allowance of one (1) story may be permitted.
  2. Where at least fifteen (15) percent of the GFA is designed and committed to residential use, a bonus height allowance of two (2) stories may be permitted.
  3. Where at least thirty (30) percent of the GFA is designed and committed to residential use, a bonus height allowance of three (3) stories may be permitted.
  4. Alternatively, if a development project is exclusively for residential development on the property, then a bonus height allowance of four (4) stories may be permitted.
- D. Limitations on permitted uses.** Any development where the applicant seeks to acquire a height bonus within the Height Bonus Overlay District shall be subject to site plan review and approval by the Planning Commission.
1. Height bonuses shall not be granted to any property where the character of the bonus residential use is incongruous with a low-density or low-intensity land use, such as a single- or double-unit dwelling, accessory dwelling unit (ADU), or a family day care, foster care, or group home facility.
  2. Height bonuses shall not be granted to any property where the character of the bonus residential use is incongruous with a high-intensity use or one that may present a potential nuisance on residents, such as funeral homes and mortuaries, marijuana establishments, smoke shops, or self-storage facilities.
  3. The Planning Commission shall review the proposed nonresidential land use to determine its appropriateness with the adjoining residential uses that are permitted for the height bonus. Any occupation or reoccupation of a land use that requires a Change of Use shall be subject to such review.
- E. Design standards.** When reviewing any proposed building requesting a bonus within the Height Bonus Overlay District, the Planning Commission shall, in addition to the standards set forth in [Sections 8.02](#) and [8.03](#) of this Zoning Ordinance, when appropriate, determine its recommendations in accordance with the following standards:
1. The building(s) shall be of such orientation to adjacent land uses and buildings as to be context-sensitive in design.

2. Shall incorporate building height modulation to reduce the building scale at the street edge(s), with the fourth (4) story stepped back a minimum of ten (10) feet from the main building face(s).
3. Shall incorporate architectural features, including, but not limited to: arches, arcades, porticos, repeating window patterns, and cornices. Windowless or otherwise unadorned walls facing streets or public areas shall be prohibited.
4. Screening shall be compatible with the architectural design of the building.



## Article 4.

# General Standards

### Section 4.01 Permitted Area

No building shall be erected, converted, enlarged, reconstructed or structurally altered, except in conformity with the area regulations of the district in which the building is located. See [Section 4.01.A](#) for requirements by District.

### Section 4.02 Permitted Height

No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit hereinafter established for the district in which the building is located, except that roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, stage lofts and screens, flagpoles, chimneys, smokestacks, individual domestic radio and television aerials and wireless masts, water tanks, or similar structures may be erected above the height limits herein prescribed. No such structure may be erected to exceed by more than 15 feet the height limits of the district in which it is located; nor shall such structure have a total area greater than 25 per cent of the roof area of the building, nor shall such structure be used for any residential purpose of any commercial purpose other than a use incidental to the main use of the building. See [Section 4.01.A](#) for district standards.

### Section 4.03 Construction Begun Prior to Adoption of Chapter

Nothing in this Chapter shall be deemed to require any change in the plans, construction or designed use of any building upon which actual construction was lawfully begun prior to the adoption of this Chapter, and upon which building actual construction has been diligently carried on, and provided further, that such building shall be completed within one (1) year from the date of passage of this Chapter.

## Section 4.04 Buildings to be Moved

Any building or structure which has been wholly or partially erected on any premises shall not be moved to and be placed upon any premises in the City.

## Section 4.05 Approval of Plats

No proposed plat of a new subdivision shall hereafter be approved by the City Council unless the lots within such plat equal or exceed the minimum size and width requirements set forth in the various districts of this Chapter, and unless such plat fully conforms with the statutes of the State of Michigan and the Harper Woods City Code.

## Section 4.06 General Lot Development Provisions

Every building hereafter erected or structurally altered to provide dwelling units shall be located on a lot as herein defined, and in no case shall there be more than one such building on one lot unless otherwise provided in this Chapter.

## Section 4.07 Lots, Yards and Open Spaces

No space which for the purpose of a building or dwelling group has been counted or calculated as part of a side yard, rear yard, front yard, or other open space required by this Chapter, may by reason of change in ownership or otherwise be counted or calculated to satisfy or comply with a yard, court, or other open space requirement of or for any other building. In any residential district, the front and rear yard requirements of a double frontage lot shall be the same as prescribed for any single lot in the zone wherein the double frontage lot is located.

## Section 4.08 Street Access

No dwelling shall be built, moved or converted upon a lot having a frontage of less than 20 feet upon a public street, or upon a private street or other permanent easement giving access to a public street. No building permit shall be issued for any construction located on any lot or parcel of land in the City of Harper Woods that does not abut on a public street or highway; provided that this Chapter shall not be the basis for preventing the issuance of a building permit for ordinary repair or maintenance of any building that is already erected on the date of the adoption of this Chapter upon a lot or parcel of land that does not so abut such a street or highway.

## Section 4.09 Moratoria

In certain rare instances it may be in the best interest of the City, its residents and property owners to establish a temporary ban on development as it may either protect the public at large by providing for proper regulation of a use or it may provide a lesser risk that individual landowners will be singled out to bear a special burden that should be shared by the public as a whole. Such instances might be where there is a use proposed which has not been regulated previously, a use which has been overdeveloped, an issue with the critical infrastructure necessary to develop certain uses or other justifiable criteria which advance a legitimate public interest.

With that purpose in mind, upon making certain findings, the City Council shall have the authority and is authorized to establish and implement moratoria. A moratorium shall only be established by the City Council

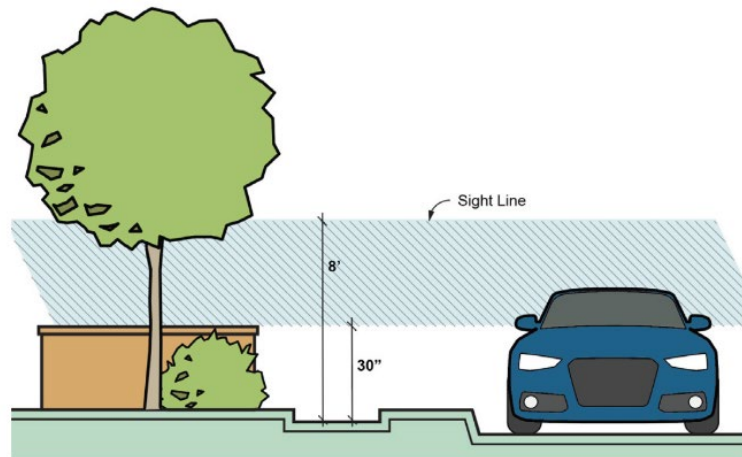
when a determination is made that such action (1) is necessary to protect the public health, safety and welfare (2) advances a legitimate public interest (3) represents diligence and good faith (4) is being applied uniformly and fairly and (5) will not deprive a property owner of all reasonable use for an unreasonable time in light of the issues at hand. Such determination of the Council shall be supported by findings of fact set forth in the public record. A moratorium shall be set for the least period of time necessary to address the matter and in any event shall not be set for a period of more than six months initially. If supported by subsequent finding of facts and a showing of due diligence and not delay, additional extensions of the moratorium may be provided for by the City Council. Any such moratoria shall be established by adoption of an ordinance, resolution or an amendment thereto.

### Section 4.10 Clear Vision Area

A. No structure, wall, fence, sign, shrubbery, or trees shall be erected, planted, or maintained on any lot which will obstruct the view of the driver of a vehicle approaching an intersection; excepting that signs, shrubbery and low retaining walls not exceeding thirty (30) inches in height above the curb level and trees where all branches are not less than eight (8) feet above the street level will be permitted in the unobstructed triangular area. See Figure 4.A.

B. Corner lots shall provide an unobstructed triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street property lines, or in the case of a rounded corner, from the intersection of the street property lines extended. See Figure 4.B.

C. All driveways shall provide an unobstructed triangular area formed by the street property line, the driveway pavement edge and a line connecting them at points ten (10) feet from their intersection. See Figure 4.B.



Maximum Height 30" for Shrubs and Other Landscape Features

Figure 4.A - Clear Vision Area - Horizontal

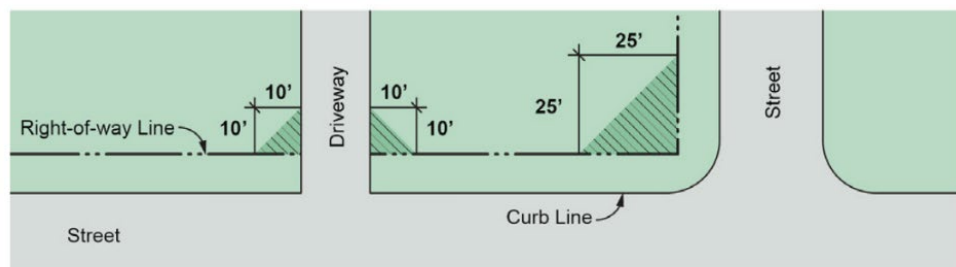


Figure 4.B Clear Vision Area - Corner

## Section 4.11 Access Management

- A. One access per parcel.** All lots of record as of the effective date of the amendment shall be entitled to one (1) driveway or road access to the street right-of-way.
- B.** Parent parcels with more than 300 feet of frontage on a public street shall also meet the requirements of this Section, except that whether subsequently divided or not, they are entitled to not more than one driveway for each 300 feet of street frontage thereafter, unless the Planning Commission determines, after reviewing a traffic impact study and analysis prepared by a registered traffic engineer, that topographic conditions, street curvature or sight distance limitations necessitate a second driveway within a lesser distance.
- C.** The following techniques are strongly encouraged to be used when designing access:
  - 1. Not more than one driveway access per abutting road.
  - 2. Shared driveways or service drives.
  - 3. Parking lot connections with adjacent property.
  - 4. Other appropriate designs to limit access points on an arterial or collector.

## Section 4.12 Traffic Impact Studies

Where authorized by this Ordinance, the Planning Commission may require a traffic impact study, prior to consideration of an application. The City may utilize its own traffic consultant to review the applicant's traffic impact study, with the cost of the review being borne by the applicant. At a minimum the study shall include:

- A.** An analysis of existing traffic conditions and/or site restrictions using current data.
- B.** Projected trip generation at the subject site or along the subject service drive based on the most recent edition of the Institute of Transportation Engineers' Trip Generation manual. The City may approve use of other trip generation data if based on recent studies of at least three (3) similar uses within similar locations in Michigan.
- C.** Illustrations of current and projected turning movements at access points, including identification of potential impacts of the development on the operation of the abutting streets. The capacity analysis shall be based on the most recent edition of the Transportation Research Board's Highway Capacity Manual and shall be provided in an appendix to the traffic impact study.
- D.** Description of the internal vehicular circulation and parking system for passenger vehicles and delivery trucks, as well as the circulation system for pedestrians, bicycles and other users.

- E. Justification of need, including statements describing how any additional access will meet the intent of this Section and be consistent with the Master Plan and any sub-area or corridor plans, while not compromising public safety and not reducing capacity or traffic operations along the roadway. Qualifications and documented experience of the author in preparing traffic impact studies in Michigan. The preparer shall be either a registered traffic engineer (P.E.) or a transportation planner, with at least three (3) years of experience preparing traffic impact studies in Michigan. If the traffic impact study involves geometric design, the study shall be prepared or supervised by a registered engineer with adequate experience in traffic engineering.

## Section 4.13 Fences

- A. **Height.** If located in front of the required or actual building line, no fence shall be more than three (3) feet high and must be ornamental in design. Fences in the rear or side yards shall not be more than six (6) feet high. Fences in side yards shall be located in back of the front foundation wall farthest from the front property line of the property in question or that of the adjoining property adjacent to the fence. If buildings are not present, side yard fences shall not extend closer to the front property line than the required front yard setback. On corner lots, fences shall not be more than six (6) feet on the outside (street) side lot line, and may be extended to the front building line.

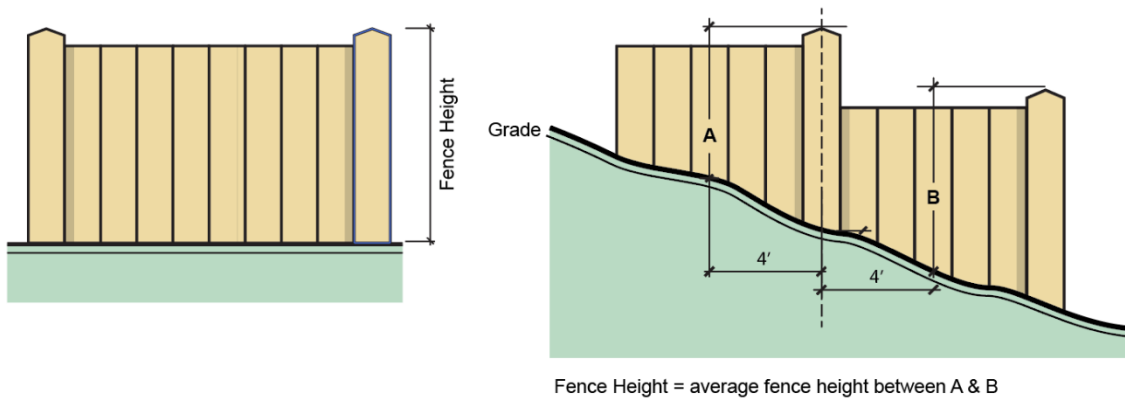


Figure 4.C: Measuring Fence Height

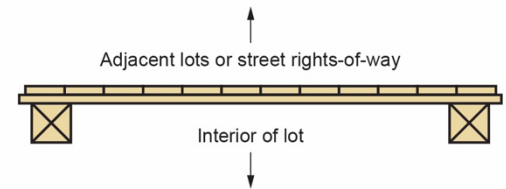
The height of a fence shall be measured as the vertical distance from the highest point of the fence to the finished grade of the ground immediately beneath the fence excluding any artificially constructed earthen berms. Where the grade is not level, the maximum fence height shall be equal to the average fence height within four (4) feet of any fence post. See Figure 4.C.

**B. Obstruction of visibility or use of adjoining property.**

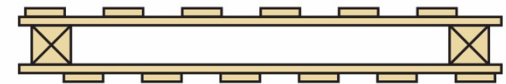
1. **Streets and Driveways.** All fences and walls shall comply with the Clear Vision Area requirements of [Section 4.10](#).
2. **From adjacent homes.** If adjacent homes have staggered front building lines, fences or walls normally allowed in back of the front building line shall not project any further into the front yard than the front building line of the adjacent home or the home with the proposed fence, whichever is a greater distance from the street.

3. **Within front yards.** To maintain maneuverability for vehicles and pedestrians in driveways, all fences, walls or ornamental objects located within the required front yard adjacent to a neighboring driveway shall be setback a minimum of two (2) feet from the front lot line and driveway.
  4. **Fences on Lot Lines.** Fences located within required side and rear yards may be erected on the lot line with the written consent of all adjacent property owners.
- C. Orientation of finished side.** Where a fence has a single finished or decorative side, it shall be oriented to face outward towards adjacent parcels or street rights-of-way (away from the interior of the lot to which the fence is associated). See Figure 4.D.
- D. Site drainage and utilities.** Fences shall not be erected in a manner that obstructs the free flow of surface water or causes damage to underground utilities.
- E. Fence construction.**
1. All fences and walls shall be of uniform design, construction and appearance and sturdily constructed to withstand normal weather conditions.
  2. All fences and walls shall be erected and maintained so as not to pose a safety hazard.
  3. All fences shall be freestanding with their own post support structure. Two separate and distinct fences shall not share post supports.
- F. Prohibited fences.** Barbed-wire and electrified fences are prohibited, except where, for the purpose of ensuring public safety, the Planning Commission may approve such fences as part of an approved site plan.

**Fence with a single finished or decorative side**



**Fence with two finished or decorative sides**



*Figure 4.D – Fence Side Orientation*

## Section 4.14 Manufactured Homes

A manufactured home shall only be permitted within an established manufactured home park. A manufactured home shall not be located on a platted lot or unplatted parcel of land.

## Section 4.15 Projections into Yards

The following permitted building projections are intended to accommodate minor exterior design features of a larger building mass. They are not intended to permit additional floor area, or a substantial portion of a building wall to project into required setbacks.

- A. Architectural features.** Architectural features may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard, and may extend or project into a required front or rear yard not more than three (3) feet.

**B. Roof overhang.**

1. The roof overhang on a principal building, including but not limited to the roof overhang on such features as bay windows, may extend not more than sixteen (16) inches into a required side yard.
2. The roof overhang on a principal building, including but not limited to the roof overhang on such features as bay windows, shall not project into the required front or rear yard more than three (3) feet.
3. The roof overhang on accessory buildings shall not project more than sixteen (16) inches into a required yard.

- C. Basement window wells** that are required by applicable construction codes to provide emergency egress shall be permitted to encroach into a required front, rear or side yard setback, only as necessary to comply with applicable construction codes, providing that the window well structure does not project more than eight (8) inches above grade.



## Article 5.

# Site Development Standards

### Section 5.01 Schedule of Dimensional Regulations

#### A. Schedule of Dimensional Regulations.

**Table 5.A – Schedule of Dimensional Regulations**

Zoning District	Minimum Lot Width (in feet)	Minimum Lot Area (in sq. feet)	Maximum Lot Coverage (Percent)	Maximum Height		Minimum Yard Setbacks (in feet)					Additional Regulations
				In Stories	In Feet	Front	Rear	Side	Total of Two Side Yard	Side Yard Adjacent to a Street	
<b>R-1</b>	80	9,600	35 g	2	30	25	35	5 e	14	20	a
<b>R-2</b>	50	5,500	35 g	2	30	25	35	4 e	13	6	a
<b>R-3</b>	50	7,500 b	35 g	2-1/2	35	25	35	4 e	13	20	c
<b>MU-1</b>	-	-	-	2	30	-	-	-	-	-	c, d, f
<b>MU-2</b>	-	-	-	3	45	-	-	-	-	-	c, d, f
<b>C-R</b>	-	-	-	2	30	-	-	-	-	-	d, f

#### Notes to the Schedule of Dimensional Regulations:

- a. The minimum floor area for a single-unit dwelling unit shall be at least 800 square feet, not including the area of basements, breezeways, unenclosed porches, terraces, attached garages, attached sheds or utility rooms.

- b. No multi-unit structure shall be erected on a lot or parcel which has a width of less than eighty (80) feet or an area of less than eight thousand (8,000) square feet. In the R-3 district, a minimum amount of land area shall be required for each unit in a multi-unit structure based on the following:

Dwelling Unit Type	Minimum Lot Area per Unit (in Sq. Feet)
Efficiency, one-bedroom or two-bedroom unit	3,000
Three or more bedrooms per unit	4,200

- c. Minimum floor area for each unit in a multi-unit structure shall be:

Dwelling Unit Type	Minimum Floor Area (Sq. Feet)
Efficiency	500
One-bedroom unit	600
Two-bedroom unit	800
Three-bedroom unit	1,000
Four or more bedroom unit	1,100

- d. Lots zoned MU-1, MU-2 and C-R adjacent to any R-1, R-2 or R-3 lots shall provide a minimum ten (10) foot setback along any shared property line.
- e. No principal building shall be constructed closer than ten (10) feet to any existing building upon an adjoining lot. In the case of a corner lot whose rear yard abuts a side yard of an adjacent lot, the side yard of the corner lot abutting the shared street shall not be less than 15 feet.
- f. No commercial building shall be erected or altered in the MU-1, MU-2 or C-R district having a first floor area of less than 800 square feet unless otherwise approved by the Zoning Board of Appeals.
- g. For all residential uses: 50% of the front yard and 50% (of the total) of the two side yards must be maintained as landscaped, green space. Permeable pavers or other semi-hardscape materials are not considered a landscaped, green space. See Section 5.05 for additional Landscaping standards, not applicable to single-family homes developed on a parcel-by-parcel basis.

## Section 5.02 Accessory Uses, Buildings, and Structures

Accessory buildings, except as otherwise permitted in this Section, shall be subject to the following regulations:

- A.** Accessory buildings, structures and uses shall be permitted only in connection with, incidental to, and on the same lot with a principal building, structure or use which is permitted in the underlying zoning district. Construction of an accessory building shall require an Administrative Sketch Plan Review unless otherwise noted, see [Section 8.02 Plan Review for Uses and Structures](#). All accessory structures in non-residential districts shall be subject to the standards of Section 5.03 Architectural Standards.
- B.** An accessory building, structure or use shall be in the same zoning district as the principal building, structure or area on a lot.
- C.** No accessory building, structure or use shall be placed on a lot without a principal building, structure or use. No accessory building structure or use shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.

- D. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this Section applicable to main or principal buildings.
- E. No more than one garage and one additional accessory building may be erected on any single lot, subject to setback, lot coverage, and other standards of this Section. The term “additional accessory building” shall encompass any structure that is not designed for automobile ingress or egress from a driveway connecting to a road right-of-way.
- F. Accessory buildings shall not be erected in any required yard except a rear yard, provided further that in no instance shall such a building be nearer than three (3) feet to any adjoining lot line except that on a corner lot the entrance to a garage shall not be less than fifteen (15) feet from the lot line adjacent to the side street, and except as provided in paragraphs (G) and (H) below. See *Section 5.01.A Schedule of Dimensional Regulations*.
- G. An accessory building, not exceeding fifteen (15) feet in height, may occupy not more than twenty-five (25) percent of a required rear yard, plus forty (40) percent of any non-required rear yard; provided, that in no instance shall the accessory building exceed the ground floor area of the main building.
- H. An accessory building shall be located in the rear yard except when structurally attached to the main building.
- I. No detached accessory building shall be located closer than ten (10) feet to any main or principal building.
- J. In the case of double frontage lots, accessory buildings shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on said streets in the same block or adjacent blocks.
- K. When an accessory building is located in the rear yard area on a corner lot, the side lot line of which is substantially a continuation of the required front yard setback of the lot to its rear, said accessory building shall be set back from the street side at least as far as the required front yard setback of the lot at the rear of the subject corner lot.
- L. In any residence zone, no garage shall be erected closer to the side lot line than the permitted distance for the dwelling unless the garage shall be completely to the rear of the dwelling, in which event the garage may be erected three (3) feet from the side lot line. No garage or portion thereof shall extend into the required front yard area.
- M. Attached garages of fireproof construction may be erected to extend beyond the front line of the house in those areas which are being developed according to a common plan that includes the construction of attached garages extending beyond the front line of the house, except that such garage shall not encroach in or upon the minimum front yard area as required by this Chapter, and provided, the cornice, eaves or overhand shall not extend more than six (6) inches into the required side yard area.
- N. No garage, utility or accessory building shall be constructed upon or moved to any parcel of property until the principal building on, or intended to be placed thereon, is at least two-thirds (2/3) completed.
- O. The total area occupied by a detached accessory building, other than a garage on the lot, shall not exceed 150 square feet on said lot. No accessory building may be closer than four (4) feet to any other accessory building.
- P. Storage buildings shall be constructed on a concrete slab at least four (4) inches in depth and surrounded by a trench four (4) inches in width and twenty-four inches in depth.

## Section 5.03 Architectural Standards

### A. Generally.

1. **Purpose and Intent.** The purpose of the architectural and site design standards is to develop compatibility and continuity among buildings in the community and to provide minimum design standards intended to enhance the appearance of the community. Buildings, parking lots, lighting, signs, landscaping, and other site and architectural design elements have a strong influence on the character and appearance of the community. Site and building designs that meet minimum quality standards contribute to the attractiveness and economic well-being and public welfare of a community, making it a better place to live and work.
2. **Projects subject to architectural and site design standards.** In addition to the standards of [Section 8.02 Plan Review for Uses and Structures](#), all site plans for the erection of any buildings and structures or site improvements, including but not limited to parking lot improvements and landscaping, shall meet the following minimum appearance standards. All new construction requiring a Building Permit and/or Zoning Compliance Permit, including additions to existing structures and any renovations visible from the exterior of the building or structure, shall be subject to architectural and site design standards.
3. **Special Provisions for Existing Sites.** Special provision is made for applying these standards to developed sites which existed prior to adoption of architectural and site design standards. When an existing site is undergoing improvement, change in use, expansion or reoccupation, the objective of these standards is to bring the site into compliance with the minimum standards of this section as much as reasonably possible. When reviewing plans for a change in use or expansion which requires site plan review, zoning compliance permit, or building permit, the administrative official or body reviewing the plan shall require compliance with all applicable landscaping requirements for the entire site. All other architectural and site design standards contained herein shall apply to the portion of the building or site proposed to be changed or expanded.
4. **Engineered Materials.** Engineered equivalent materials are permitted as the original material is permitted in each district. Engineered materials must match the appearance of natural binding materials.
5. **Painted Building Materials.** Existing exterior masonry may not be painted or stained unless approved by the Planning Commission. Preference will be given to existing building materials that are already painted or stained and when the applicant proposes to stain, not paint, the façade.
6. **Building Colors.** Exterior finish materials and colors must be consistent or compatible with the character of the surrounding district. Accent colors are permitted to activate the street front and exercise artistic placemaking; this standard is to not be interpreted as prohibiting the incorporation of public art, such as a mural, to buildings or sites.
7. **Waivers.** The Planning Commission may modify the material standards, based on determination that the proposed materials or colors are high-quality and compatible with the architecture and style of the primary building and context.

**B. Building Materials.**

1. **Permitted Building Materials.** The table below details the permitted exterior building materials allowed on each façade that faces a public street or right of way (not including alleys) in each zoning district, whether it is a principal material or an accent material.
  - a) **Principal Material (P):** Primary building materials must constitute at least 75% of the total façade on each building elevation.
  - b) **Accent Material (A):** Accent building materials, altogether, must not constitute more than 25% of the total façade, on each building elevation.

**Table 5.B: Permitted Building Materials**

Exterior Building Materials	R-1	R-2	R-3	MU-1	MU-2	R-C
Brick (including face brick but not veneer), burnished concrete masonry or masonry	P	P	P	P	P	P
Cut stone, field stone, ceramic cladding, cast stone, natural stone, or manufactured stone	P	P	P	P	P	P
Wood, including cross laminated timber, dimension lumber, and reclaimed wood	A	A	A	P	P	P
Burnished and textured concrete masonry units (CMU)	A	A	A	P	P	P
Standard concrete masonry units (CMU)						
Fiber cement siding	P	P	P			
Fiber cement panels	A	A	A	P	P	
Precast concrete panels						A
Stone composite panels	A	A	A	A	P	P
Closed cavity façade (e.g., glass curtain wall system)				P	P	P
Clear or lightly tinted glass	P	P	P	P	P	P
Metal wall panel (including steel)				P	P	P
Vinyl siding	P	P	P			
Exterior Insulation and Finishing System (EIFS) / Artificial Stucco	A	A	A	A	A	A

Consideration should be given to the exterior materials of adjacent buildings to achieve consistency in appearance with adjacent buildings where appropriate.

2. **Standards for Non-Residential and Mixed-Use Developments:**

- a) **Building Entrance:** All commercial buildings and uses shall have a public entrance facing the street. Secondary public entrances at the rear or the side of the building shall be clearly defined as a public entrance with a canopy or other design feature.
- b) **Windows:** Building facades facing the public right-of-way shall consist of at least 20 percent window area. The bottom sill of the windows on the front facade shall be located no higher than four (4) feet above grade. No more than 25 percent of the window area shall be covered with signage or other obscuring elements. When a building is located on a corner, this standard shall

apply to both facades facing the rights-of-way, unless one of the rights-of-way faces a residential use.

- c) **Awnings and Canopies:** Back-lighted and internally illuminated awnings shall be prohibited. Awnings shall articulate each window or wall opening.
- d) **Roof-Mounted Equipment:** All roof-mounted equipment, including but not limited to air conditioning units, heating apparatus, dust collectors, transformers, satellite dishes and antennae, and other communication and mechanical equipment, other than chimneys, flagpoles, and solar energy systems, shall be screened by one of the following architectural elements:
  - 1) A parapet wall extending above the roof as tall as the tallest part of the equipment.
  - 2) A screen around the equipment that is as tall as the tallest part of the equipment. The screen shall be constructed to be compatible with the building design.

## Section 5.04 Parking

**A. Purpose.** In all zoning districts, space shall be provided as specified in this chapter for the parking and storage of self-propelled motor vehicles for the use of occupants, employees and patrons of buildings and uses hereafter erected, established, altered or extended after the effective date of this section.

### **B. General Requirements.**

1. **Provision of Spaces Required.** Whenever a structure or use is established, constructed, altered, or expanded, an existing use is replaced by a new use (change of use), or the intensity of a use is increased through additional dwelling units, an increase in floor area or seating capacity or similar means, automobile off-street parking with adequate access to all spaces shall be provided in accordance with the provisions of this Section.
2. **Alteration of Existing Parking.** Existing off-street parking facilities accessory to an existing building or use shall not be reduced to an amount less than the minimum required by this Section for a similar new building or new use. The minimum required off-street parking spaces shall not be replaced by any other use unless adequate parking facilities meeting the standards of this Section have first been provided at another location.
3. **Prohibited Activities.** An unenclosed off-street parking space may not be used for the storage or parking of trailers, manufactured housing units, junked or wrecked vehicles of any type or used as a storage area for merchandise or industrial equipment or material, or used as a dump for refuse of any description. No repairs or service to vehicles and no display of vehicles for the purpose of sale shall be carried on or permitted on areas designated as required off-street parking.
4. **Certificate of Occupancy.** No certificate of occupancy shall be issued upon completion of any newly constructed building, extension or addition to an existing building or use modifications done under authority of a site plan approval unless and until all off-street parking and loading space requirements shown on the plans, or made a part of the building permit, shall be in place and ready for use.
5. **Maintenance.** All paving, directional devices and protective equipment, landscaping and other equipment furnished or required as part of an off-street parking facility shall be maintained by the owner or tenant to ensure safe pedestrian movement, vehicular operation, adequate protection of adjoining properties, and to present a neat and attractive appearance. Property owners shall be

required to repair, partially or completely resurface or reconstruct any parking lot that develop surface depressions, potholes, cracks or deterioration that can damage vehicles, hold standing water or create an unsafe pedestrian walking surface as determined by the Community Development Director.

**C. Number of Off-Street Parking Spaces.** The number of off-street parking, stacking, and loading spaces shall be provided in accordance with the following standards.

1. **Minimum number of spaces by use.** The minimum number of off-street parking spaces and stacking spaces by type and use shall be determined in accordance with Table 5.04.A.

**Table 5.04.A – Minimum Required Off-Street Parking Schedule**

<b>Residential Dwelling Uses</b>	
Adult Foster Care Facility	0.25 spaces per resident
Dwellings, Multiple Units (Three or more units)	One and a Half (1.5) spaces per dwelling unit plus 0.16 visitor spaces per dwelling unit
Dwellings, Single Unit and Two Unit	<ul style="list-style-type: none"> <li>• Two (2) spaces per dwelling unit with four (4) or fewer bedrooms</li> <li>• One (1) space for each bedroom per dwelling unit with five (5) or more bedrooms</li> </ul>
Convalescent Care Facilities	0.5 spaces per resident sleeping room
Housing for Older Adults (Detached and Congregate)	0.8 spaces per dwelling unit
<b>Commercial Uses</b>	
Default Commercial Use Standard	One (1) space per 350 SF of usable floor area
Car Wash	One (1) space per employee plus ten (10) stacking spaces per wash line or bay plus one (1) exit stacking space for post-wash detailing
Child Care Center (Day Care Center)	One (1) space per ten (10) pupils plus one (1) space per employee
Drive-Through Window Facilities, Restaurant	Ten (10) stacking spaces per service window
Lodging Facility (Bed & Breakfast, Hotel, Motel)	One (1) space per room
Office (Medical or Professional)	One (1) space per 350 SF of usable floor area
Outdoor Sales (Lumber yards, nurseries, vehicle sales)	One (1) space per 1,000 SF of outdoor sales or display area
Personal Service Establishments	One (1) space per 350 SF of usable floor area
Places of Assembly (where demand generated by general occupancy and not floor area use i.e. sit-down banquet hall, health clubs)	One (1) space per three (3) persons permitted at maximum occupancy
Restaurant (including bars, breweries, distilleries and taverns)	<ul style="list-style-type: none"> <li>• One (1) space per three seats at any table, counter or bar</li> <li>• One (1) space per 50 SF of floor area in any carry-out waiting area</li> </ul>
Retail Store	One (1) space per 350 SF of usable floor area
Self-Storage Facility	Five (5) spaces plus one (1) per employee
<b>Industrial Uses</b>	
Default Industrial Use Standard	One (1) space per 550 SF of usable floor area
Artisan Maker Space	One (1) space per 400 SF of usable floor area plus one (1) space per 350 SF of retail sales usable floor area
Manufacturing	One (1) space per 550 SF of usable floor area plus one (1) space per 350 SF of office use usable floor area
Research and Development Establishments	One (1) space per 350 SF of dedicated office space usable floor area plus one (1) space per employee in research/laboratory floor area
Warehouse	One (1) space per 1,700 SF of usable floor area plus one (1) space per 350 SF of office use usable floor area
<b>Public and Quasi-Public Uses</b>	

Default public/quasi-public use standard	1 space per 3 persons permitted at maximum occupancy
Parks, Playgrounds and Playfields	1 space for each 3 adult persons utilizing equipment or playfield
Places of worship	1 space for each 3 persons permitted in the main worship hall at maximum occupancy
Public and Semi-Public Institutional Buildings and Uses	1 space per employee

2. **Uses not listed.** For uses not specifically listed in Table 5.04.A, the default parking standard for that type of use shall apply, unless the Planning Commission determines that the standard for a similar listed use is more appropriate.
3. **Lots and buildings with more than one use.** Where more than one use is present in a building or a site, such as a vehicle fueling station with convenience store and restaurant, the various components of the use shall comply with the requirement for each component based on their individual characteristics such as floor area, employees, or other applicable characteristic.
4. **Fractional spaces.** When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall require one parking space.
5. **Units of measurement.** The following units of measurement are used in calculating the required parking:
  - a) **Floor Area.** Where floor area is the unit for determining the required number of parking spaces, said unit shall mean gross floor area.
  - b) **Usable Floor Area.** Usable floor area shall mean the floor area used for service to the public and shall not include floor area used for storage or processing and packaging of merchandise where it is undertaken in a room in which service to the public is not involved. When usable floor area is not known at the time of site plan submittal, 80 percent of the total floor area shall be used for usable floor area for parking computations.
  - c) **Places of Assembly.** For places of worship or similar places of assembly in which those in attendance occupy benches, pews or similar worship area, each twenty four (24") inches of such seating/worship area shall be counted as one (1) permitted person.
  - d) **Employees.** For requirements stated in terms of employees, the calculation shall be based on the maximum number of employees on the premises during the largest shift.
6. **Maximum parking permitted.** In order to minimize excessive areas of pavement which negatively impact aesthetic standards and contribute to high volumes of stormwater runoff, the maximum amount of off-street parking permitted for any use shall not exceed one hundred ten percent (110%) of the minimum parking requirements of Table 5.04.A. This requirement shall not apply to single-family or two-family dwellings. The Planning Commission may permit additional parking over and above the maximum parking limit based on evidence that surrounding land uses or the public interest would not be negatively impacted.
7. **Reduction of parking requirements.** The Planning Commission may reduce parking requirements based upon a finding that there will be a lower demand for parking due to one (1) of the following factors:

- a) Expectation of walk-in business due to sidewalk connections to adjacent residential neighborhoods or employment centers. Site design shall incorporate pedestrian connections to the site that provide safe and convenient access to the building entrance.
  - b) Availability of other forms of transit. The Planning Commission may require that the site design incorporate transit stops, pedestrian connections to transit stops, or enhanced bicycle parking facilities.
8. **Shared parking.** The minimum parking requirement may be adjusted by a shared parking factor that considers a mixture of uses sharing a common parking facility when different types of uses have different peak usage times. The uses that share a common parking facility may be located within a single building or in separate buildings located on the same or adjacent lots.
- a) **Shared Parking Calculation.** The total number of parking spaces required for two (2) or more land uses sharing a parking lot or located on the same or adjacent parcel of land shall be determined by the following procedure:
    - 1) Multiply the minimum parking required for each individual use, as set forth in Table 5.04.B Shared Parking Factors, by the appropriate percentage indicated in the for each of the six (6) designated time periods.
    - 2) Add the resulting sums for each of the six (6) columns.
    - 3) The minimum parking requirement shall be the highest sum among the six (6) columns resulting from the above calculations.
    - 4) If one (1) or all of the land uses proposing to make use of shared parking facilities do not conform to the general land use classifications in the Shared Parking Factor table, as determined by the Planning Commission, the applicant shall submit sufficient data to indicate the principal operating hours of the uses. Based upon this information, the Planning Commission shall determine the appropriate shared parking requirement, if any, for such uses.
  - b) **Agreement.** A written agreement between joint users in a form approved by the City shall be filed with the Wayne County Register of Deeds. The agreement shall ensure the continued availability of the parking facility for the uses it is intended to serve.

**TABLE 5.04.B - Shared Parking Factors**

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

**D. Location of Parking Lots and Driveways**

- 1. **Residential Dwelling Uses.** Off-street parking facilities required for residential dwellings shall be located on the same lot or premises they are intended to serve. No portion of the front yard shall be

paved or used for a vehicle access driveway or parking except in compliance with the following standards:

- a) **Required paving.** Driveways and parking spaces shall be paved with concrete, asphalt or masonry paver blocks and shall be prohibited from using gravel, mulch, soil and any other surface except that pervious concrete, asphalt and masonry pavers may be permitted.
  - b) **Driveways and approaches.** The approach located in the right-of-way connecting the road travel lane to the private driveway shall not be greater than 16 feet in width. Driveways on the residential lot shall match the width of the approach within the first ten (10) feet from the front lot line. Driveways shall be a minimum of eight (8) feet in width for the entire length of the driveway.
  - c) **Single-unit dwelling with no garage or detached garages.** Lots with no garage or a detached garage shall be permitted one driveway that is not located between the principal structure and the front lot line.
  - d) **Single-unit dwelling with an attached garage.** Lots with attached garages shall be permitted one driveway located between the attached garage, the closest side lot line and the front lot line. No part of the driveway shall be located between the residential portion of the principal structure and the front lot line.
  - e) **Two-unit dwellings.** Lots with two dwelling units shall have no more than two (2) separate approaches and driveways. No part of any driveway shall be located between the residential portion of the dwelling and the front lot line.
  - f) **Dwellings with three or more units.** Lots with three (3) or more dwelling units shall have an off-street parking lot meeting all applicable requirements of Sec. 5.04.E: Parking Lot Design and Construction. Off-street parking shall be located in the rear yard.
  - g) **Permitted Parking Areas.** Vehicle parking shall only be permitted on hard surface driveways and within garages. In no case shall vehicles be parked closer than five feet to the front lot line.
2. **Mixed Uses and Non-Residential Uses.** Off-street parking facilities required for mixed-use and non-residential uses shall be located on the same lot or parcel as the building or use they are intended to serve, or within 500 feet of the use it is intended to serve, measured from the nearest point on the lot line of the use to the nearest point on the lot line of the off-street parking lot.
- a) **Parking lot location.** Off-street parking facilities required in the MU Mixed Use zoning district shall not be located in the front yard.
  - b) **Side yards.** Side yards shall be maintained for a space of not less than ten (10) feet between the side lot lines of adjoining lots and the parking area. The depth of the front yard or setback line from the street as established for houses in any block in any given residential area shall be continued and made applicable to parking space in such residential area. It shall be unlawful to use the space between such setback line and the sidewalk for the parking of vehicles.
- E. Parking Lot Design and Construction.** Required off-street parking spaces shall be located in a parking lot that is designed, constructed and maintained in accordance with the following requirements:
1. **Pedestrian Circulation.** Parking lot layouts shall attempt to accommodate pedestrian circulation. Where applicable, pedestrian crosswalks shall be provided, shall be distinguished by textured paving or pavement striping, and shall be integrated into the sidewalk network.

2. **Cross Access Connections.** Common, shared parking facilities are encouraged. As such, wherever feasible, cross-access connections between adjacent parking lots, or a future connection when no adjacent parking lot exists but can reasonably be expected to be constructed on an adjacent parcel at a future date are required. Blanket cross-access easements across the entire connected parking lot area shall be provided for lots under separate ownership or management. The cross-access easement shall be recorded with the Wayne County Register of Deeds.
3. **Ingress and Egress.** Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided from the adjacent public right-of-way or private access drive to the parking lot.
4. **Backing Onto Public Right-Of-Way.** Backing a vehicle onto or from public rights-of-way (public alley excepted) is prohibited in all areas except residential areas. Parking spaces shall be designed and arranged so that it is more convenient for the parking space user to accomplish the necessary backing movements on the private property than it is to work onto or from the public rights-of-way.
5. **Screening.** Whenever a parking area adjoins residential property or a residential street or alley an ornamental masonry wall six (6) feet in height shall be erected and maintained between the required yard space and area to be used for parking. On such other locations where a protective barrier is required, the use of dense shrubbery may be permitted by the Planning Commission. All required walls, fences, or other barriers shall be properly maintained and kept free of debris, signs or any advertising whatsoever.
6. **Landscaping.** Parking lots shall provide landscaping in accordance with [Section 5.05](#).
7. **Lighting.** Parking lots shall provide adequate lighting in accordance with [Section 5.06](#).
8. **Hardtop Surfacing.** All parking areas and drives that serve a use other than one- or two-family residential shall be provided with asphaltic or concrete surfacing so as to provide a permanent, durable, and dustless surface.
9. **Curbing.** Off-street parking lots shall be curbed with concrete curbs and gutters. Necessary curbs or other protection for the public and for the protection of required landscaping, adjoining properties, streets and sidewalks shall be provided and maintained.
10. **Grading and Drainage.** All parking lots shall be graded and provided with proper internal drainage facilities to dispose of all surface water, in a manner to be approved by the City Engineer and according to the requirements of Oakland County prior to the issuance of an occupancy permit. No surface water from such parking area shall be permitted to drain onto adjoining property.
11. **Bumper Stops / Raised Curbs.** Bumper stops or raised curbs shall be provided where deemed necessary by the city to prevent any vehicle from projecting over the lot line or from damaging any wall, fence or other structure.
12. **Parking Space and Drive Aisle Dimensions and Configuration.** The layout of off-street parking facilities shall be in accordance with the following minimum requirements of Figure 5.04.A.
  - a) **Spaces adjacent to walls and other structures.** When a parking space is located adjacent to a fixed object, such as a wall, fence, or support post, which interferes with the opening of any vehicle door, the width of the space shall be increased by one foot.

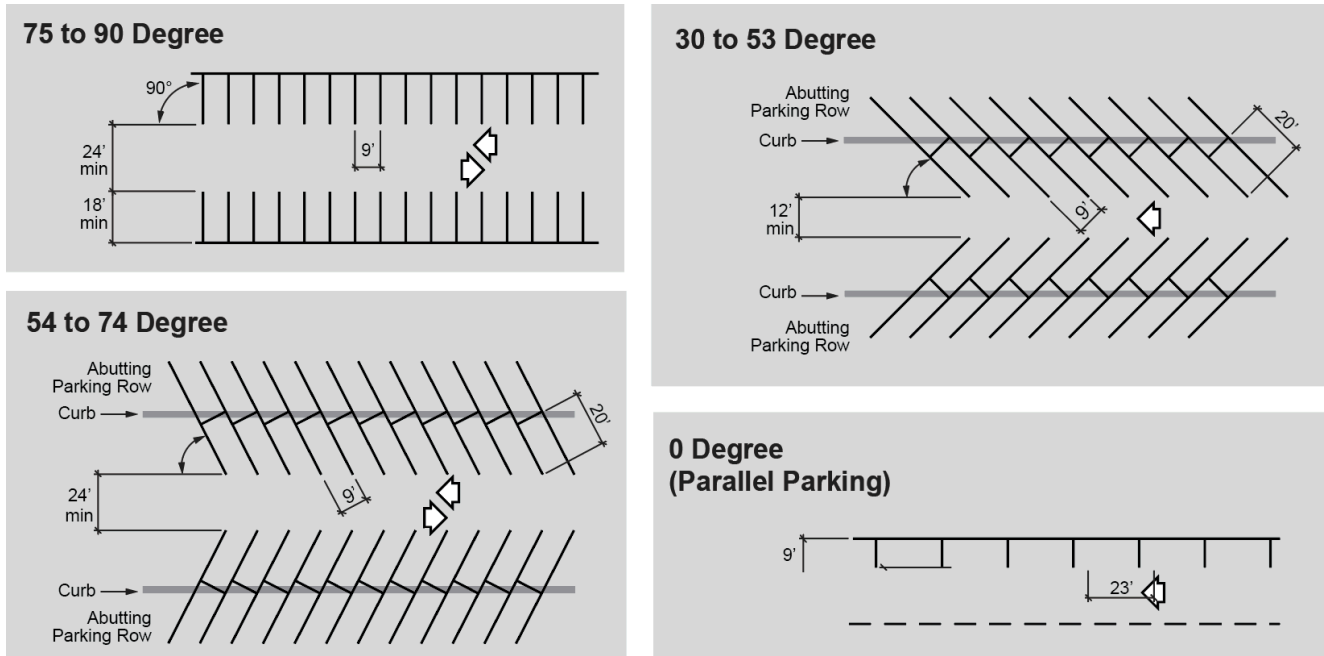


Figure 5.04.A: Required Dimensions for Various Parking Space Configurations

Table 5.04.C – Parking Space Dimensions

Parking Angle	One-Way Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total width of one row of spaces plus maneuvering lane	Total width of two rows of spaces plus maneuvering lane
0 Degrees/ Parallel	15 ft.	8 ft.	23 ft.	23 ft.	31 ft.
30 to 53 Degrees	15 ft.	9 ft.	21 ft.	36 ft.	57 ft.
54 to 74 Degrees	18 ft.	9 ft.	21 ft.	37 ft.	60 ft.
75 to 90 Degrees	25 ft.	9 ft.	19 ft.	44 ft.	63 ft.

13. **Surface Striping.** All off-street parking lots with three (3) or more parking spaces shall have clearly marked and distinct parking spaces meeting the minimum parking space width and depth of Table 5.04.C. All parking spaces shall be outlined with a minimum of three (3) inch stripes of paint, the color of which contrasts with the parking lot surface.

F. **ADA Accessible Parking Space Standards.** Off-street parking facilities, excluding residential dwellings with four or less units, shall be designed, constructed, and maintained in compliance with the American with Disabilities Act of 1990 (ADA), as amended, and in accordance with the following:

1. **Location.** ADA-accessible spaces and passenger loading zones that serve a particular building shall be the spaces or zones located closest to the nearest accessible entrance on an accessible route. In separate parking structures or lots that do not serve a particular building, parking spaces for persons with disabilities shall be located on the shortest possible circulation route to an accessible pedestrian entrance of the parking facility. ADA-accessible spaces shall be identified by above grade signs and pavement striping as shown in Figure 5.04.B.

2. **Number Required.** Accessible parking spaces in compliance with the American with Disabilities Act shall be established based on the number of parking spaces provided on site. The minimum number of ADA accessible spaces required are not in addition to the minimum number required in Table 5.04.A but are included as a part of the overall total number of spaces required within a parking lot.

**Table 5.04.D - Minimum Required ADA Parking Spaces**

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

3. **Parking Space and Access Aisle Dimensions.** ADA van accessible spaces shall be at least 96 inches wide and shall have an adjacent access aisle 96 inches wide minimum. ADA standard accessible parking spaces shall be at least 96 inches wide and shall have an adjacent access aisle 60 inches in width. Parking access aisles shall be part of an accessible route to the building or facility entrance and shall comply with the requirements in the Uniform Federal Accessibility Standards, the State Barrier-Free Manual, and the requirements of the Americans with Disabilities Act, as amended.

Two accessible parking spaces may share a common access aisle. Parked vehicle overhangs shall not reduce the clear width of an accessible circulation route.

4. **Identification.** ADA accessible parking spaces shall be designated as reserved for persons with disabilities by a sign showing the International symbol of accessibility. Such signs shall not be obscured by a vehicle parked in the space.

**G. Commercial and Recreational Vehicle Standards.**

1. **Commercial vehicles shall comply with the following standards:**

- a) Commercial vehicles shall have a valid state license and be fully operable.
- b) A commercial vehicle shall not be parked on public streets, except that this provision shall not be construed as to prevent the temporary parking of emergency vehicles, delivery trucks, moving vans and similar vehicles used for delivery of goods and services, nor the parking of commercial vehicles at an active construction or building job site that has an active building permit.
- c) One commercial vehicle only, with a rated capacity not to exceed three-quarter of a ton, may be parked on a residential lot, provided that the vehicle is not a utility truck, such as a wrecker, septic tank pumper, or a vehicle that carries flammable or toxic materials. Commercial vehicles not parked in a garage shall be parked in a rear yard on a paved surface meeting the requirements of [Sec. 5.04.E\(8\)](#).

2. **Recreational vehicles shall comply with the following standards:**

- a) No recreational vehicle shall be stored or parked anywhere on the public street or utility right-of-way or easements. These provisions shall also apply to utility trailers or trailers used for display or demonstration purposes.
- b) No recreational vehicle shall be kept or stored outside on any property, unless such property is licensed as a recreational vehicle storage yard by the City of Harper Woods for a period of longer than one week except in compliance with all of the following conditions:
  - 1) The recreational vehicle shall be owned, rented or leased by the owners or occupants of the property on which the same is stored and shall be currently State of Michigan licensed.
  - 2) Not more than one recreation vehicle shall be kept or stored outdoors at one time.
  - 3) Recreation vehicles kept or stored outdoors shall not exceed 8 feet in width or 32 feet in length.
  - 4) Storage of recreational vehicles shall be in the rear yard only on a paved surface.

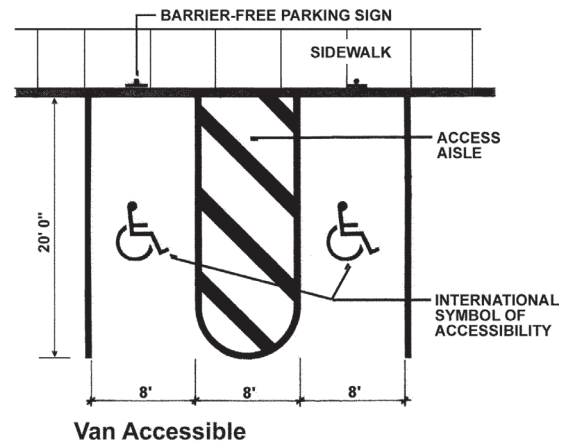


Figure 5.04.B Dimensions, Configurations, and Striping of Barrier-Free Parking Areas.

5) All recreational vehicles so kept or stored shall be in good repair. Open storage of partially or disassembled component parts of said uses is prohibited.

c) Recreational vehicles shall not be used for living, lodging or housekeeping purposes.

#### H. Off-Street Loading.

1. **Prohibited Loading Location.** All uses shall be prohibited from utilizing the vehicle travel lanes of public streets for the loading and/or unloading of any merchandise, items or passengers. In no way shall any loading/unloading activity block or impede the flow of vehicles in dedicated travel lanes of public streets.
2. **Loading Location Requirement.** Any use that shall have loading/unloading activities as a regular component of their use, including, but not limited to, scheduled delivery of merchandise or goods once or more per week, or residents moving in or out once or more per month, shall be required to have a designated loading location. A designated loading location shall be of sufficient size to accommodate a delivery vehicle, shall not interfere with the free flow of vehicles, and shall be located on an asphalt or concrete surface. The zoning administrator, or Planning Commission if a proposed use is required to obtain site plan approval, shall make the determination that the proposed loading location will meet all applicable standards and regulations.

## Section 5.05 Landscaping

The installation of landscaping elements is intended to promote compatibility between land uses, contribute to the overall storm water management approach and improve the aesthetic and visual image of the City. Screening and land use buffers are necessary for the protection and enhancement of the City and to ensure reasonable compatibility between land uses of differing intensity or impacts. The following landscaping approach will enhance the visual environment; preserve natural features; protect property values; alleviate the impact of noise, traffic, and more intensive land uses; screen headlights of vehicles to reduce glare; and minimize visual impacts of parking lots, loading areas and storage areas. Screening and buffering contribute to a healthy development pattern and increase the level of privacy for residential uses in the City. Specific landscaping configurations and elements can improve water quality and filtration while alleviating the burden on the aging stormwater system infrastructure.

The purpose of this Section is to establish minimum standards for the design, installation, and maintenance of landscaping elements and plant materials; to establish reasonable standards for the screening of uses of a significantly different scale or character; and buffering of parking lots, storage areas, and similar activities from street rights-of-way and adjacent lots. It is the intent of this Section that required landscaping elements shall be immediately effective in achieving the purpose of this Section and shall maintain that effectiveness as the plant materials mature.

**A. Review and Approval Required.** No site plan shall be approved unless it shows landscaping and screening/buffering requirements consistent with the requirements of this Section.

The requirements in this section shall apply to new construction (excluding one-family residential dwelling units, when developed on a parcel-by-parcel basis). Newly constructed single family residential development must meet Section 8.02. Landscaping must be brought into compliance with the Zoning Ordinance also in the following instances:

1. Modifications of an existing building that result in an increase of the building's footprint.

2. Modifications to a site that result in an increase of the total amount of impervious surface on the site of fifty percent (50%) or greater.
3. A special land use or review by Planning Commission is required.

The requirements in this Section are minimum requirements, and under no circumstances shall they preclude the developer and the City from agreeing to more extensive landscaping.

Creativity in the landscaping design is encouraged. Accordingly, required trees and shrubs may be planted at uniform distances, at random, or in groupings. Depending on the designer's desired visual effect and, equally important, the intent of the City to coordinate landscaping and screening on adjoining properties.

**B. Maintenance Requirements.** No landscaped area may be abandoned or paved without submission and approval of the Planning and/or Building Department.

**C. General Landscaping Requirements**

1. All landscape plans must include a minimum of 50% plants native to Michigan.
2. All plant material must conform to the description consistent with generally accepted and published nursery and landscape standards. Plant materials must be typical of their species or variety, have normal habitat of growth, well-branched and densely foliated when in leaf.
3. Artificial plants and invasive species are prohibited from satisfying landscape requirements.
4. **Species Variety Required.** No more than 33% of any single plant species may be used unless there are 3 required plantings or less.
5. **Mulch.** Planting and tree beds must present a finished appearance, with shredded hardwood bark mulch or a similar natural material at a minimum depth of 3-inches. All mulched areas must be refreshed seasonally.
6. **Lawn Areas.** Lawns must be planted with species of grass normally grown as permanent lawns in southeast Michigan. Grass may be sodded or seeded and mulched. Sod or seed must be clean, free of weeds and noxious pests or disease. Where possible, xeriscape design is highly encouraged.
7. **Minimum Planting Size.** All plantings must meet the following minimum size at the time of planting:
  - a) Deciduous Trees. 2½-inches in caliper, measured at 18-inches above grade.
  - b) Ornamental Trees. 2-inches in caliper, measured at 18-inches above grade.
  - c) Evergreen Trees. 8-feet in height, measured from grade.
  - d) Shrubs. 30-inches in height, measured from grade.
8. **Installation.** All landscaping must be installed in a manner consistent with generally accepted and published nursery and landscape standards, the approved landscape plan, and the following:
  - a) All trees must be balled and burlapped at the time of planting.
  - b) Plant material must be freshly dug, and nursery grown. Plant material must be of sound health, vigorous and uniform in appearance with a well-developed root system and free from disease, insects, pests, eggs, or larvae. Trees must have straight trunks with leaders intact, undamaged, and uncut.

- c) All planting areas shall be stabilized and maintained with seed, sod, ground covers, mulch, or other approved materials to prevent soil erosion and allow stormwater infiltration. Mulch shall be spread in a manner that avoids soil compaction and shall not overflow into public rights-of-way.
- d) A minimum of 4-inches of topsoil must be provided for all lawn areas, groundcovers, berms, and planting beds.

**D. Modifications to Landscaping Standards.** The Planning Commission may reduce or waive the specific standards of this Section, upon determination that the landscaping requirements and purposes of this Section have been satisfied by existing topography, vegetation, by one of the methods detailed below or by other means acceptable to the Planning Commission.

1. **Payment in Lieu of Landscaping / Tree Planting.** The Planning Commission or the combination of the Building Official, the Zoning Administrator/City Planner/Economic Development Director, and the City Administrator may waive landscaping requirements at their discretion through offering a payment in lieu of landscaping plan. The payment is an amount established by resolution of the City Council and may be used for tree planting or green infrastructure features elsewhere in the City.
2. **Green Infrastructure in Lieu of Landscaping.** The Planning Commission or the combination of the Building Official and Zoning Administrator/City Planner may allow green infrastructure features in place of tree plantings and instead of payment in-lieu of tree plantings, so long as there is not less than 1 street / interior tree on site. The alternatives may include:
  - a) Pervious durable surface types (grass pavers, permeable interlocking concrete, resin-bound paving, permeable clay brick pavers, permeable asphalt, permeable concrete)
  - b) Rain gardens measuring at least 150 square feet in area
  - c) Bioswales
  - d) Green roofs
  - e) Green walls
  - f) Raised bed planters
  - g) Alternative green infrastructure features presented by the applicant or city staff, determined suitable by Planning Commission, with recommendation by the City Planner, Building Official and/or the Community Development Director.

**E. Landscape Design Standards for Non-One-Family Development**

1. **Site Landscaping.**
  - a) All unpaved portions of the site shall be planted with grass, ground cover, shrubbery, or other suitable plant material. Groundcover examples include perennial flowers, ornamental grasses, flowering shrubs, xeriscape (i.e., succulents). Turf grass is not allowed as a singular groundcover method within landscaped islands but can be used as a method of permeability diversification. Planting required within the parking lot shall be in addition to, and not in lieu of, other planting requirements, such as for street trees.
  - b) One (1) deciduous tree shall be planted per 2,000 square feet of unpaved area. Eight (8) shrubs may be substituted for each required tree.

2. **Frontage Landscaping.** When a site abuts a road right-of-way, frontage landscaping must be provided in the front yard are adjacent to the right-of-way or within the right-of-way, per the table below. For the purposes of computing length of road frontage, corner lots are responsible for the length along both street frontages, openings for driveways and sidewalks are counted towards the total linear frontage. Trees and shrubs may be planted at uniform intervals, at random, or in groupings.

**Table 5.05.A – Minimum Size of Landscaping at time of Planting**

Type of Frontage Landscaping	Min. Required per Linear Foot of Road Frontage (or fraction thereof)
Deciduous Trees*	1 deciduous tree per 40 linear feet of public street frontage. Trees must be planted within planters, tree grates within the sidewalk, or within a five-foot wide green planting strip located between the curb and the sidewalk.  *Evergreen trees may be considered by the Planning Commission when so located as to not obstruct sight lights).
Ornamental (Flowering) Trees	Some must be incorporated, but the amount is at discretion of the applicant. Ornamental trees may be planted within the front yard.
Shrubs (Evergreen or Flowering Bushes)	8 shrubs per 40 linear feet.
Flowering Plants and Grasses	Some must be incorporated, but the amount is at discretion of the applicant.

3. **Parking Lot Landscaping.** To improve the safety of pedestrian and vehicular traffic, manage stormwater runoff, guide traffic movement, mitigate the urban heat island effect, and improve the appearance of parking lots, for every 10 off-street parking lot spaces, there must be at least one below-grade landscaped island measuring a minimum of 150 square feet in area. This landscaping may count toward the overall site landscaping requirement.  
  
Each landscaped island must contain at least one large deciduous tree of a minimum 2-inch caliper and must be covered with mulch, grasses, and groundcover.
4. **Screening from Parking Lot.** Screening adjacent to a parking lot is not required if the parking surface area is completely screened from the right-of-way by an intervening building or structure. Where a parking lot is located adjacent to sidewalks, streets, and other rights-of-way, screening must be provided within 10-feet of the parking lot with the following (or a combination thereof):
  - a) **Landscaping Screen / Vegetative Bioswale.** A 3-foot-wide greenbelt with an evergreen, rose bush or deciduous hedge, at least 3-feet in height. Alternative to a hedge, vegetated stormwater-control buffer can be utilized, so long as a mixture of plantings are used to provide sufficient visual screening of the parking lot area. If the site is a re-occupancy, then planter boxes may be allowed to meet landscaping requirements to avoid asphalt excavation.
  - b) **Screen Wall.** A decorative masonry wall or black aluminum fencing, at least 3-feet in height. Walls must contain a stone or masonry cap and fences must incorporate stone or masonry piers at regular intervals.
5. **Screening from Residential Uses.** All non-residential uses that abut a residentially used property must provide screening by one or a combination of the following:
  - a) A reinforced, decorative masonry or CMU block wall, 6-feet in height above grade, with a stone cap.

- b) A 5-foot-wide greenbelt with evergreen trees forming a continuous screen (trees planted 10-15 feet apart (on center) in 2 staggered rows). Evergreens shall be a minimum of 5 feet in height at the time of planting.
  - c) 10-foot-wide landscaping greenbelt or bioswale
6. **Perimeter Landscaping.** The use of perimeter landscape areas, meaning areas to screen from the parking lot or from residential uses, is strongly encouraged to be designed as areas to infiltrate and treat stormwater.
  7. **Landscaping Adjacent to Buildings, Front and Side Yards.** All building walls visible from a right-of-way or publicly accessible area must have a 3-foot-wide landscape area adjacent to them for at least 25% of their total width. This area may include inground landscaping, raised landscape beds, green wall, decorative landscape containers / planter boxes, or a combination thereof.
  8. **Dumpster/Refuse Containers.** Containers and permitted outdoor storage must be screened by a decorative masonry (brick or concrete) or composite wall, at least 6-feet in height above grade, or 1-foot above the object which it is screening, whichever is greater. A 10-foot concrete apron is required. A gate constructed from metal, composite material or chain link fencing with obscuring fabric or slats is required.
  9. **Loading Zone Screening.** Loading zones (including service areas, staging areas, truck docks, etc.), must be screened from adjacent residentially used land and rights-of-way with a decorative masonry wall, building wing wall, or densely planted landscape buffer, or other means acceptable to the Planning Commission. The Planning Commission (or Zoning Administrator if the plan is under administrative site plan review) has the option to waive a permanent loading zone screening wall if they find it beneficial to the project and the community.
  10. **Mechanical and Utility Equipment Screening.** Transformers, wireless communication facilities, climate control and mechanical equipment, and other above ground utility cabinets or equipment that is not compatible to the principal building material/color must be screened with evergreen plantings or a decorative opaque fence at least 1-foot taller than the height of the cabinet / equipment. This requirement does not apply to equipment serving one- or two-family dwelling units or solar energy systems.

#### F. Landscape Design Standards for Residential Uses

1. **One-Family Residential.** Within 1-year of the issuance of a temporary certificate of compliance, the following is required for new one-family dwelling units:
  - a) **Lawns.** Lawns must be sodded, seeded or hydro seeded, and installed in all areas of residential property not otherwise landscaped, and must be maintained and present complete coverage within 3months of planting. The property owner is responsible for soil erosion protection prior to the installation and for maintaining the approved grade before and after lawn installation.
  - 1) **Alternative Groundcover.** Low-growing plants other than traditional turfgrass, including but not limited to fine fescues, buffalo grass, zoysia grass, microclover, native grass mixes, creeping thyme, sedum species, and mondo grass, which are used to cover the ground in a landscape setting. Alternative groundcovers selected for use must be appropriate for the local climate, soil conditions, and intended use of the area. Preference should be given to native species and those that provide ecological benefits such as pollinator support or nitrogen fixation.

- 2) **Planting pollinator habitat.** Enhancing pollinator habitats through the strategic use of native plants and sustainable gardening practices can significantly contribute to the health and diversity of local ecosystems.
- b) **Trees.** Two deciduous trees (at least 2-inches caliper) must be planted; at least one tree must be planted within the front yard, which includes the public right-of-way, and one in the rear yard.
2. **Medium-Density Multiple-Family Residential.** In addition to the standards listed for Non-One Family Developments, multiple-family residential uses must provide a minimum of one deciduous or evergreen trees per dwelling unit, unless an approved green infrastructure alternative is used in place.

## Section 5.06 Lighting

Lighting shall be provided to preserve, protect, and enhance the lawful nighttime use and enjoyment of properties in the City through the use of appropriate lighting practices and systems. Exterior lighting shall be designed, installed, and maintained to control glare and light trespass, minimize obtrusive light, conserve energy and resources, maintain safety, security and productivity, and prevent the degradation of the nighttime visual environment. The design and illumination standards of this section shall apply to all exterior lighting sources and other light sources visible from the public right-of-way, road easement, or adjacent lots, except where specifically exempted herein.

### A. Review and Approval Required.

1. **Projects Requiring Photometric Plan Submittal.** A photometric plan shall be submitted when a site plan review is required by the Planning Commission in accordance with [Section 8.02: Plan Review for Uses and Structures](#). The photometric plan shall include the location, mounting height and light levels for all existing and proposed light sources. Detailed cut sheets for all fixtures shall be submitted for fixtures in compliance with the standards of this section. The Community Development Director may request the submittal of a photometric plan and/or light fixture cut sheets for projects requiring administrative sketch plan review or plot plan review.
2. **Installation or Replacement of Existing Light Fixtures.** The installation of any new light fixtures or the replacement of existing light fixtures shall require compliance with the standards of this section.

### B. Required Lighting Levels and Areas.

1. **Vehicle Areas.** All access driveways, parking and loading areas shall have an average minimum light intensity illuminance level of 2.0 footcandles at grade. The curb cut approach for each access driveway that intersects with a public street shall have a minimum illuminance level of 2.0 footcandle at grade. Light shall be allowed to trespass the property line to ensure the minimum illuminance level is provided and that vehicle drivers have a clear and visible view of the driveway and any vehicle in the driveway. The minimum illuminance level shall be maintained from dusk until dawn.
  - a) Vehicle areas located under a canopy, including but not limited to, vehicle fueling station canopies and drive-through service canopies, shall have illuminance levels not exceeding 20 footcandles.
2. **Pedestrian Areas.** All sidewalks, walkways, pedestrian paths and building entrances and exits shall have a minimum light intensity illuminance level of 2.0 footcandles at grade.

3. **Areas Adjacent to Residential Uses.** Lighting for uses adjacent to any lot used exclusively for a single family dwelling shall be designed and maintained such that illumination levels do not exceed 0.3 footcandle along any property line shared with the single family dwelling.

#### C. Light Fixture Standards.

1. **Height.** Light fixtures withing parking areas shall not exceed a height of 25 feet. Light fixtures along and within nonvehicular pedestrian areas shall not exceed a height of 15 feet. All light fixtures located within 50 feet of any structure with a residential use or any residentially used or zoned lot shall not exceed a height of 15 feet. Light fixture height shall be measured from the ground level to the bottom edge of the light source.
2. **Fully Shielded Fixtures Required.** All light fixtures shall be shielded by having a light source that is located behind or within an opaque barrier such that light from the fixture does not emit above the horizontal plan of the opaque barrier, i.e. 90 degrees from nadir where nadir is the angle pointing directly downward from the fixture. Figure 5.06.A shows examples of unshielded fixtures which are prohibited and fully shielded fixtures that are acceptable. The fixtures shown in Figure 5.05.A are merely shown to demonstrate options and are not regulatory in and of itself.
3. **Fixture Direction.** All light fixtures shall be pointed and directed downward to the ground, i.e. towards nadir.
4. **Fixture Mounting.** All light fixtures shall be mounted to a wall or pole with a fixed bracket that does not allow the fixture to be tilted or angled. Building or wall mounted light fixtures shall not project above the fascia or roof line of the building. Light fixtures mounted within or underneath a canopy area, including but not limited to, vehicle fueling station canopies and drive-through service canopies, shall be recessed into the canopy structure. All light fixture components, including but not limited to the lens covers, shall be flush with the bottom canopy surface and provide a fully shielded light distribution.
5. **Required Sensors and Controls.** All light fixtures shall be installed with photocells and an automated power control dimming module that will automatically adjust the light levels and turn on and off the light fixture based on ambient outdoor light conditions.
6. **Correlated Color Temperature Standards.** All light fixtures shall not exceed a color temperature of five-thousand (5,000) kelvins.

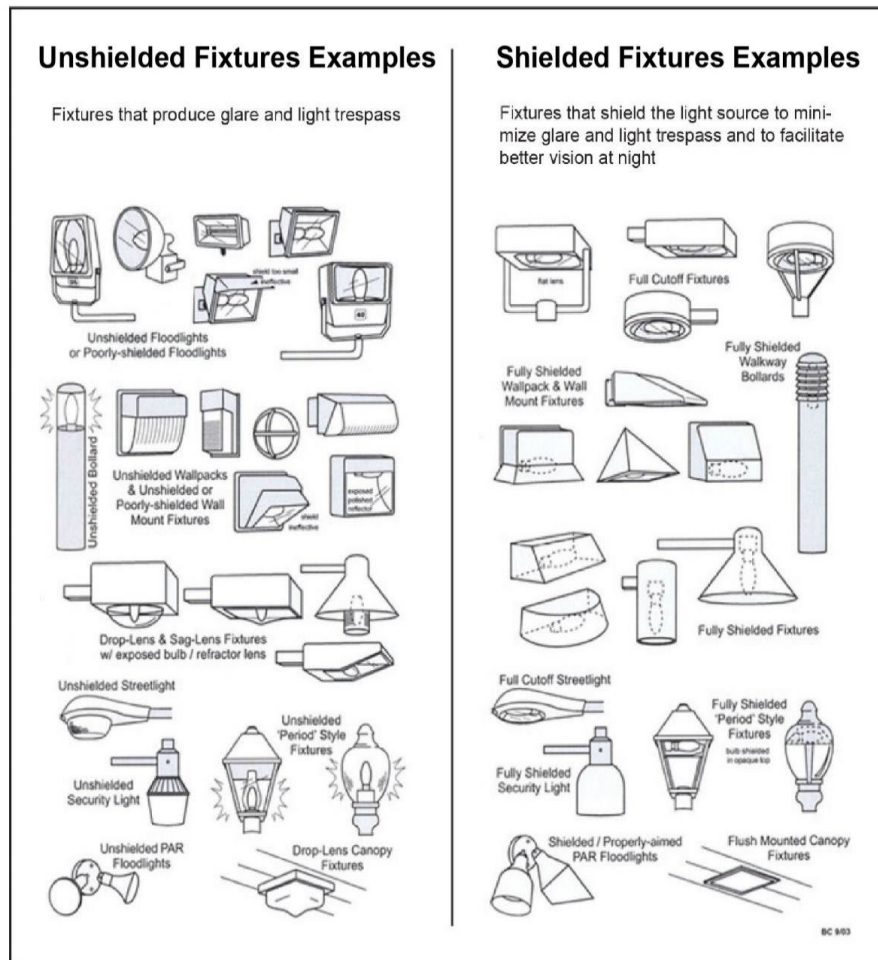


Figure 5.06.A - Examples of Light Fixtures

**D. Lighting Design and Glare.** Exterior lighting sources shall be designed, constructed, located and maintained in a manner that does not cause off-site glare on neighboring properties or for vehicles traveling in adjacent streets. In general, the light source or light emitting element of any light fixture should not be directly visible from a neighboring property, as this is the primary cause of glare. Light fixtures shall be located to direct forward light away from adjacent dwellings and into the interior of a site. Light fixtures shall use backlight glare shields to further reduce high and very high backlight from fixtures.

**E. Prohibited Lighting.**

1. Flashing, pulsating, moving, chasing, or strobing lights, or any other lights that move or simulate movement, are prohibited.
2. Rope lighting, tube lights and strips/ribbons of LED lighting are prohibited, including those located on the interior of a building but designed to be visible through a window.
3. Searchlights and other similar high-intensity narrow beam fixtures are prohibited.
4. Metal halide, mercury vapor and sodium vapor light sources are prohibited.

- F. Exempt Uses.** Single family dwellings and the use of holiday decorations are exempt from the requirements of this section, except that the Building Official may take steps to minimize glare, light trespass or light pollution impacts when it is determined to be necessary to protect the health, safety and welfare of the public.
- G. Exceptions.** It is recognized by the City that there are certain uses or circumstances not otherwise addressed in this section, such as sports fields, street lighting, or lighting for monuments and flags, that may have special exterior lighting requirements. The Building Official, or the Planning Commission when site plan or special land use review by the Commission is required, may waive, or modify specific provisions of this section for a particular use or circumstance upon determining that all of the following conditions have been satisfied.
1. The waiver or modification is necessary because of safety or design factors unique to the use, circumstance, or site.
  2. The minimum possible light intensity is used that would be adequate for the intended purpose. Consideration shall be given to maximizing safety and energy conservation, and to minimizing light pollution, off-site glare and light trespass on to neighboring properties or street rights-of-way.
  3. For lighting related to streets or other vehicle access areas, a determination is made that the purpose of the lighting cannot be achieved by installation of reflectorized markers, lines, informational signs or other passive means.
  4. Additional conditions or limitations may be imposed by the review authority to protect the public health, safety or welfare, or to fulfill the purpose of this chapter.

## Section 5.07 Signs

The erection, construction or alteration of all outdoor advertising structures, billboards, signs, and other notices that advertise a business, commercial venture or name of a person or persons shall be approved by the Building Inspector as to compliance with all applicable regulations pertaining to signs in the Zoning Ordinance and Chapter 21 of the City Code of Ordinances.



# Article 6.

# Use Standards

## Section 6.01 Accessory Dwelling Units (ADU)

All attached and detached accessory dwelling units (ADU), existing and proposed, are subject to the following regulations:

- A. Permitting.** Property owners seeking to establish an ADU on their property shall file the following permits with the City. Approval to build and inhabit an ADU shall be contingent upon approval of a Zoning Compliance permit and all other permits required by the City Building Official and Zoning Administrator.
- B. Residential zoning and structures.** ADUs shall only be permitted on properties in Zoning Districts where the principal land use is a conforming single-unit dwelling.
- C. Incidental use to residence.** The ADU shall be clearly incidental to the principal residence on the site. Accordingly, the following conditions shall apply:
  - 1. ADUs shall be established in owner-occupied residences only; the principal residence shall remain owner-occupied for the duration of time that the ADU is actively in use.
  - 2. Only one (1) such ADU shall be permitted on each property.
  - 3. The total floor area of the ADU shall not exceed six hundred (600) square feet.
  - 4. An attached ADU shall occupy no more than forty (40) percent of the gross floor area of the principal building as measured prior to the construction of the ADU. A detached ADU shall occupy a floor area equivalent to no more than forty (40) percent of the current ground-level floor area of the existing principal building.
  - 5. Any expansion of the existing principal building to construct an attached ADU, or the construction of a detached ADU, shall not exceed the maximum lot coverage for the underlying zoning district, pursuant to Section 5.01 of the Zoning Ordinance.
  - 6. For an attached ADU that requires an addition onto the principal building, the exterior appearance of the principal building shall remain unchanged, so that it does not give the appearance of being divided

into separate units. A detached ADU shall be constructed in a manner that reflects the exterior coloration, building materials, and architectural elements of the principal building.

7. Access to an attached ADU shall be limited to a common entrance foyer or a separate entrance door on the side or rear of the principal building.

**D. Setbacks and placement on the parcel.** An ADU shall comply with all setback requirements for the district in which it is located. Detached ADUs shall be regulated as an accessory use and shall conform to the dimensional requirements for accessory uses as provisioned in Section 5.02 of the Zoning Ordinance.

**E. Compatibility with surrounding land uses.** The design of the accessory dwelling be in a manner that is compatible with the single-family character and appearance of the principal residence and the surrounding neighborhood. The accessory dwelling shall not have an entrance visible from the front yard, other than the entrance that serves the principal residence. When viewed from the outside, it shall not appear that more than one household occupies the site.

**F. Parking and access.** In addition to required parking for the principal residence, one (1) additional parking space shall be provided for the accessory dwelling.

## Section 6.02 Adult-Oriented Uses

These provisions shall apply to adult-oriented uses, which encompass any establishment that, as a substantial portion of its business, is distinguished or characterized by entertainment, devices, or services which are sexually explicit in nature.

**A. Purpose and Intent.** Regulations of adult-oriented uses are established for the following purposes:

1. Adult-oriented uses are established as a special land use in order to establish areas of the City where the constitutionally protected right of free expression is permitted subject to reasonable conditions to protect the community from the adverse effects of said uses.
2. Because adult-oriented uses have been documented to produce adverse effects to surrounding properties and the community as a whole, these uses shall be permitted only at locations where these adverse impacts will be minimal.
3. Because adult-oriented uses have been documented to produce adverse effects to surrounding properties and the community as a whole, provisions are established that will protect surrounding properties and the community from potential adverse effects of adult-oriented uses.
4. Because concentrations of two or more adult-oriented uses in close proximity have been documented to create inordinate increases in crime and decreases in property values in the vicinity, a requirement of separation between adult-oriented uses shall be established.

**B. Prerequisites for Establishment.** Adult-oriented uses shall be permitted only if the site, site design, and conduct of the use comply with the following standards:

1. **Locational and Site Requirements:**

- a) **Zoning Districts.** An adult-oriented use shall only be located in the Regional Commercial District, conditional on special land use permit approval. An adult-oriented use shall have access to a major thoroughfare, herein defined as Harper Avenue, Kelly Road, Vernier Avenue, and Eight Mile Road.

- b) **Required Setback from Residential Districts.** No adult-oriented use may be established, operated, or maintained within five hundred (500) feet of a lot in the R-1, R-2 or R-3 zoning district.
  - c) **Required Setback from Buffered Uses.** No adult-oriented use may be established, operated, or maintained within two hundred fifty (250) feet of any of the following uses: place of worship, preschool, state-licensed child care facility, state licensed halfway house or group home, public library, public park or playground, or public or private school.
  - d) **Required Setback from other Adult-Oriented Uses.** No adult-oriented use may be established, operated, or maintained within one thousand (1,000) feet of any other adult-oriented use.
  - e) Measurement of the minimum required setback distances shall be made from the outer most property line boundaries of the lot or parcel upon which the proposed adult business will be situated to the nearest point on a property line of the lot or parcel where any other existing adult business or buffered use is located or nearest point on a property line of any lot or parcel zoned R-1, R-2 or R-3.
  - f) An adult-oriented use which is established in conformance with Section 6.02.C.2 and Section 6.02.C.3, above, may continue to operate if subsequent rezoning or establishment of uses in the vicinity make the adult-oriented use nonconforming with respect to either Section 6.02.C.2 and Section 6.02.C.3.
2. **Performance Standards:**
- a) If an adult-oriented use is located in a freestanding building, a solid brick or masonry screening wall six (6) feet in height must be constructed around the side and rear lot lines, beginning ten (10) feet from the street line, with landscaping standards pursuant to Section 5.05 of this ordinance.
  - b) No direct vehicular access shall be taken from a street other than a major thoroughfare, as defined in 1.a, above, unless it is determined that the access will not create problems of through traffic and on-street parking for a residential neighborhood.
  - c) All activities shall be conducted within an enclosed building and not visible through windows or doors to public right-of-way, including public sidewalk.
  - d) No sound shall be produced by the activities conducted within the building that are discernable at or beyond the property boundaries of the adult-oriented use.
  - e) Signage shall conform to the City's Sign Regulations and in addition shall include no graphic displays and shall not include any wording that conveys in any way the meanings of any part of the definitions of "Specified anatomical areas" or "Specified sexual activities", as defined elsewhere in this Chapter.

## Section 6.03 Bed and Breakfast Establishments

Any dwelling in which overnight accommodations are provided or offered for transient guests for compensation, including provision for a morning meal only for the overnight guest. A bed and breakfast establishment is distinguished from a hotel or motel in that a bed and breakfast establishment shall have only one set of kitchen

facilities, employ only those living in the house or up to one (1) additional employee, and have a facade style consistent with the surrounding homes.

The following standards shall apply to bed and breakfast inns:

- A. Primary residence.** The dwelling shall be the primary and permanent residence of the bed and breakfast inn operator. Meals or other services provided on the premises shall be available only to residents, employees and overnight guests of the establishment.
- B. Food service.** Bed and breakfast shall only provide food service before 12:00 p.m. Refreshments may be made available, but meal service involving full and active use of kitchen facilities to serve all guests on a given day following this time shall not be permitted.
- C. Guests.** The number of guest rooms shall be limited to one (1) less than the total number of bedrooms in the dwelling unit, not to exceed five (5) guest rooms total. The maximum number of guests at any given time shall be limited to three (3) times the number of guest rooms. Guests may stay no longer than fourteen (14) days in succession or a total of sixty (60) days in any twelve (12) month period.
- D. Parking.** Off-street parking shall be provided for guests outside of any required front yard. Stacking of more than two (2) vehicles in a driveway is prohibited.
- E. Landscaping.** Site landscaping and screening from adjacent residences and parking areas or any outdoor eating or activity area, shall be provided in compliance with all applicable provisions of [Section 5.05](#).

## Section 6.04 Child Care Facilities

- A. State License Compliance.** All child care facilities shall be registered with and licensed by the applicable State of Michigan department, shall comply with the Child Care Organizations Act, PA 116 of 1973, MCL 722.111 et seq. as amended along with all applicable state rules and shall maintain on file with the City a copy of a valid State license.
- B. Outdoor Play Area.** Group Child Care Homes and Child Care Centers shall provide and maintain for each child cared for a minimum of one hundred and fifty (150) square feet of outdoor play area. Such play space shall have a total minimum area of not less than one thousand two hundred (1,200) square feet. Said play area shall be fenced and screened from any adjoining lot. A public park that meets the State requirements for being located within an acceptable distance from the child care facility may meet this requirement with approval provided from the state.
- C. Off-Street Parking.** Group Child Care Homes and Child Care Centers shall provide a dedicated off-street parking facility where vehicles dropping off children shall park and an adult shall escort a child from the parked vehicle into the child care facility. The Zoning Administrator, or Planning Commission if site plan review is required, shall determine that the proposed parking configuration and the plan for child drop-off/pick-up provides a safe and effective method for children to enter the facility and does not negatively impact adjacent uses. Any City approved parking plan shall not conflict with the requirements of the State of Michigan Child Care Licensing Bureau or any subsequent successor agency.

## Section 6.05 Cigar Lounges, Smoking Lounges and Smoke Shops

- A. State Exemption Required.** Cigar lounges and smoking lounges shall have the proper exemption from the State of Michigan prior to beginning operation and shall provide copies of the approvals to the City.

- B. Setback from Schools and Child Care Facilities.** Cigar lounges, smoking lounges, and smoke shops shall be located no less than five hundred (500) feet from any private or public preschool, elementary, secondary, vocational, trade, or collegiate school, as well as any licensed child care facility. The minimum required setback shall be measured from the outermost property line boundaries of the parcel upon which the cigar lounge, smoking lounge or smoke shop is located to the nearest point on a property line of the parcel upon which the above cited school or child care facility is located.
- C. Setback from Similar Facilities.** Cigar lounges, smoking lounges and smoke shops shall provide a minimum required setback no less than one thousand (1,000) feet from any other cigar lounge, smoking lounge or smoke shops. The minimum required setback shall be measured from the outermost property line boundaries of the parcel upon which the cigar lounge, smoking lounge or smoke shop is located to the nearest point on a property line of the parcel upon which any other cigar lounge, smoking lounge or smoke shop is located.
- D. Restrictions on Associated Activities.** The use of any inhalant product, including smoking and vaping, shall be restricted to the inside of the principal building that has a valid exemption. No smoke or odor shall be discernable outside of the principal building of any cigar lounge, smoking lounge or smoke shop.

## Section 6.06 Convenience Stores

Convenience stores, as defined in Article 2, shall comply with the following requirements.

- A. Retail-only convenience stores.** Convenience stores that do not provide food service shall be permitted pursuant to the Table of Land Uses by District in [Section 3.08](#) of the Zoning Ordinance. A retail-only convenience store that pursues the installation of food service equipment, per the definition of “food service convenience store” shall be subject to the applicable standards of this Section of the Zoning Ordinance.
- B. Food service.** Food-service convenience stores shall be permitted by Special Land Use approval in the MU-1 and MU-2 districts and by right in the C-R district. Convenience stores meeting this definition shall also comply with the following standards:

  1. Kitchen facilities shall not be accessible to the public. The exception to this standard is if a subject establishment has self-service food service areas, subject to local, state, and federal food safety regulations.
  2. A drive-through for the purpose of serving food shall not be permitted.
  3. Food service convenience stores, licensed by the State of Michigan as a Specially Designated Merchant, shall not sell alcoholic beverages for consumption on-site, and shall not include alcoholic beverages in the menus for food and beverages made to order.
- C. Vehicle fueling station convenience stores.** If a convenience store is associated with a vehicle fueling station, it shall always be considered an accessory use, and shall be subject to all applicable standards for vehicle fueling stations in this Zoning Ordinance. The following provisions shall also apply:

  1. The inclusion of a pharmacy or drug store within a vehicle fueling station convenience store shall not be permitted.
  2. The provision of food service within a vehicle fueling station convenience store shall not change the classification of the use to a food service convenience store. Food service within a vehicle fueling station convenience store shall follow the provisions of Section 6.06.C.1, and Section 6.06.C.3.

3. Section 6.06.B.2 shall not apply to food service in a vehicle fueling station convenience store. Drive-throughs for food service located inside of a vehicle fueling station convenience store shall be subject to the standards of Section 6.07 of the Zoning Ordinance, if one is proposed.

**D. Traffic impact study.** A traffic impact study, in accordance with [Section 4.12](#), may be required by the Planning Commission to evaluate the impacts of the traffic generated by the use.

## Section 6.07 Drive-Through Facilities

Drive-throughs, as defined in Article 2, must comply with the following requirements.

- A. Screening.** When a drive-through adjoins property located in any residential district, a masonry wall, ornamental on both sides, five (5) feet in height shall be erected and maintained along the interior line, or if separated from the residential zone by an alley, along the alley lot line. In addition, all outside trash areas shall be enclosed by said five (5) foot masonry wall. Said wall shall be protected from possible damage inflicted by vehicles using the parking area by means of pre-cast concrete wheel stops at least six (6) inches in height, or by firmly implanted bumper guards not attached to the wall, or by other suitable barriers.
- B. Pavement.** The entire parking area shall be paved with a permanent surface of concrete or asphalt and shall be graded and drained. Any unpaved area of the site shall be landscaped with lawn or other horticultural materials pursuant to the standards of [Section 5.05](#), maintained in a neat and orderly fashion at all times, and separated from the paved area by a raised curb or other equivalent barrier.
- C. Lighting.** Lighting shall be installed in a manner which will not create a driving hazard on abutting streets or which will not cause direct illumination on adjacent residential properties. Lighting fixture design and placement shall follow all applicable provisions of [Section 5.05](#).
- D. Ingress and Egress.** Adequate ingress and egress shall be provided. Vehicle and pedestrian circulation shall be constructed in a manner that does not pose nuisance or danger regarding traffic generation and pedestrian safety.
- E. Review.** Before approval is given for any drive-in establishment, a site plan shall first be submitted to the Planning Commission for review as to suitability of location of entrances and exits to the site, parking area, stocking, screening, lighting and other design features.
- F. Location.** In the case of restaurants with a carry-out station or drive-through pick-up service, no such restaurant building shall be located closer than seven hundred and fifty (750) feet from any other such restaurant, provided the City Council may, after review by the Planning Commission, waive this requirement upon a finding that the application of the regulation as enacted would result in peculiar or exceptional practical difficulties or exceptional undue hardship upon the owner of such property, and upon a finding that the exception will not violate the intent of this Section.
- G. Traffic impact study.** A traffic impact study, in accordance with [Section 4.12](#), shall be required by the Planning Commission to evaluate the impacts of the traffic generated by the use.

## Section 6.08 Event Hall or Banquet Hall

Event halls or banquet halls that are the principal use of a lot or building shall comply with the following standards. A building or room used by a civic institution, government entity, hotel, place of workshop or public

school district in which events are held and is clearly accessory to the principal use of the lot or structure shall not be required to comply with the following.

- A. Lot requirements.** The building shall be permitted on a parcel no less than one (1) acre in area.
- B. Location.** Event halls shall be located on a major thoroughfare.
- C. Building design.** The following provisions shall apply to all event halls regarding their construction:
  - 1. The building shall not be less than three thousand (3,000) square feet in gross floor area.
  - 2. The building shall be fully enclosed and all activities shall be held inside the building.
  - 3. An event space facility shall provide a dedicated kitchen for the preparation and storage of food for an event in compliance with all applicable Wayne County Public Health Division standards. Kitchen facilities shall contain commercial-grade equipment including, but not limited to, a refrigerator, freezer, oven, stove top, microwave, sink, dish washer and storage pantry.
  - 4. Outside storage shall not be permitted.
- D. Hours of operation.** The hours of operation shall be confined between the hours of 8:00 a.m. and 12:00 a.m.
- E. Accessory buildings.** No accessory structures shall be permitted to be used in concert with the principal use for an event. Portable restroom facilities shall not be permitted.

## Section 6.09 Foster Care Facilities

The following regulations shall apply to facilities that provide supervision, personal care, and protection of individuals who require care, but not continuous nursing care, in addition to room and board 24 hours a day and 7 days a week.

- A. Licensing.** All foster care facilities shall be licensed by the relevant State agencies, alongside any superseding agencies, and shall follow all applicable state and federal regulations for foster care facilities.
- B. Relationship with neighboring uses.** The property shall be maintained in a manner that is consistent with the character of the surrounding neighborhood.
- C. Adult foster care facilities.** The below provisions pertain specifically to buildings used as foster care facilities for adults aged eighteen (18) or older.
  - 1. **Lot size.** A parcel used for an Adult Foster Care Small Group Home shall meet the minimum lot area requirements of the underlying zoning district, provided that there is no less than one-thousand-five-hundred (1,500) square feet per adult, excluding employees.
  - 2. **Living space.** Facilities shall have no less than thirty-five (35) square feet of indoor living space per person, excluding restroom, storage, hallways, kitchens, and sleeping areas.
  - 3. **Bedrooms.** A single occupancy bedroom for a facility shall have no less than eighty (80) square feet of usable floor area. A multioccupancy residential bedroom shall have no less than sixty-five (65) square feet of usable floor area per bed.

- D. Other applicable standards.** Properties where such uses are existing or proposed shall abide by all other applicable standards maintained by the State of Michigan, including State law and requirements from responsible State agencies and superseding agencies.

## Section 6.10 Funeral Homes and Mortuaries

The following regulations shall apply to funeral homes and mortuaries:

- A. Minimum Lot Dimensions.** The funeral home or mortuary shall have a minimum lot area of one-half (0.5) acre and a minimum lot width of one-hundred-fifty (150) feet.
- B. Vehicle assembly area.** An adequate assembly area shall be provided off-street for vehicles to be used in funeral processions. All maneuvering areas and exit aprons shall be located within the site. Streets and alleys shall not be used for maneuvering or parking of vehicles.
- C. Screening.** The service and loading area shall be obscured from adjacent residential areas in accordance with Section 5.05 of the Zoning Ordinance.
- D. Caretaker's residence.** A caretaker's residence may be provided within the main building of the funeral home or as an approved accessory building on the site, subject to the provisions of this Ordinance.
- E. Crematoria.** Facilities for cremating human remains shall not be permitted.
- F. Traffic impact study.** A traffic impact study, in accordance with [Section 4.12](#), may be required by the Planning Commission if the Commission determines that the traffic generated by the use could adversely affect the area.

## Section 6.11 Ghost Kitchens

- A. Site plan approval.** All proposed ghost kitchens shall be subject to site plan review requirements provisioned in [Section 8.02: Plan Review for Uses and Structures](#) of the Zoning Ordinance.
- B. Permits.** A proposed ghost kitchen shall obtain all necessary permits required by the City of Harper Woods, Wayne County, and State of Michigan prior to beginning operations.
- C. Maximum area.** The following standards shall apply to the maximum area permitted for ghost kitchens:
- 1. Accessory ghost kitchens.** When supplies and equipment are used separately from the principal restaurant, accessory ghost kitchens shall have a usable floor area of no more than three hundred (300) square feet.
  - 2. Principal ghost kitchens.** Principal ghost kitchens shall have a usable floor area of no more than two thousand (2,000) square feet.
- D. Accessory ghost kitchens.** The following standards shall apply only to accessory ghost kitchens:
- 1.** Accessory ghost kitchens whose operations, inventory, and maintenance are completely coterminous with the principal restaurant use shall still be subject to the provisions of this Section.
  - 2.** Carry-out of food and beverages ordered in person that is otherwise only available through a ghost kitchen menu, shall not be permitted.

3. Signage indicating the presence of a ghost kitchen at a restaurant shall not be permitted.

**E. Principal ghost kitchens.** The following standards shall apply only to principal ghost kitchens:

1. No signage indicating the presence of a principal ghost kitchen shall be permitted.
2. Principal ghost kitchens that provide a drive-through window for delivery drivers shall be subject to all applicable standards of [Section 6.07: Drive-Through Facilities](#).
3. No indoor seating or other areas for on-site consumption of food and beverages shall be permitted.

**F. Alcohol delivery service.** The provision of alcoholic beverages shall only be permitted by establishments that have been issued a liquor license pursuant to Chapter 12, Article X of the City Code of Ordinances. Alcoholic beverages sold by and delivered from ghost kitchens shall be packaged in manufacturer-sealed containers, such as bottles or cans.

**G. Traffic impact study.** A traffic impact study, in accordance with [Section 4.12](#), shall be required by the Planning Commission to evaluate the impacts of the traffic generated by the use.

## Section 6.12 Home Occupations

**A. Intensity of Use.** Home occupations must be conducted within a principal dwelling unit and permitted accessory structures and shall not occupy more than twenty-five (25) percent of the gross floor area of the structure. The exterior of the dwelling shall not be altered from its residential appearance.

**B. Parking and Loading.** Home occupations shall be limited to the parking and storage of one (1) commercial vehicle on the premises not exceeding a one thousand five hundred (1,500) pounds capacity, provided such vehicle is directly related to the home occupation. Delivery vehicles used to deliver goods to a home occupation are limited to automobiles, passenger vehicles, mail carriers and express package carriers. Deliveries shall be permitted only between the hours of 8:00 a.m. and 8:00 p.m.

1. **Performance Standards.** The home occupation shall conform with the following:

- a) Customer or client visits to a home occupation are limited to between the hours of 8:00 a.m. and 8:00 p.m.
- b) A home occupation shall generate more than twenty (20) customer or client visits per week, with no more than two (2) customers or clients present at any given time.
- c) The home occupation shall have no non-resident employees on the premises at any time.

**C. Permitted Uses.** The following uses are permitted home occupations. Any home occupation not specifically listed may be permitted as a special approval use, subject to the provisions of [Section 8.03](#):

1. Home offices for such professionals as architects, doctors, brokers, engineers, insurance agents, lawyers, real estate agents, accountants, writers, salespersons and similar occupations.
2. Individual instruction, including music, dance, art and craft classes, tutoring, and studios for artists sculptors, musicians and photographers.
3. Workshops for tailors, dressmakers, milliners, and craft persons, including weaving, lapidary, jewelry making, cabinetry, and woodworking.

4. Repair services for watches and clocks, small appliances, computers, electronic devices, and similar small devices.
5. Telemarketing and on-line marketing.

### Section 6.13 Hospitals

The following regulations shall apply to hospitals:

- A. Lot Area.** The minimum lot area for a hospital site shall be ten (10) acres.
- B. Frontage and Access.** Hospitals shall front onto a major thoroughfare and the main means of access to the hospital for patients, visitors, and employees shall be via the thoroughfare. Secondary access to a hospital site may be off of a residential street.
- C. Setbacks.** The principal building and all accessory buildings shall be set back a minimum distance of fifty (50) feet from any property line. The Planning Commission may allow the placement of an eight (8) foot high obscuring masonry wall at the property line in lieu of the setback requirement.
- D. Screening.** Ambulance, emergency entrance areas, and loading areas shall be effectively screened from view from all adjacent residential uses by the building design, landscaping, or a masonry wall.
- E. State and Federal Regulations.** Hospitals shall be constructed, maintained, and operated in conformance with applicable state and federal laws, including provisions of the Michigan Hospital Survey and Construction Act, Public Act 299 of 1947, as amended.
- F. Accessory Uses.** Accessory uses, such as a pharmacy, gift shop, cafeteria, place of worship, and similar uses shall be allowed within the principal building.
- G. Traffic impact study.** A traffic impact study, in accordance with [Section 4.12](#), shall be required by the Planning Commission to evaluate the impacts of the traffic generated by the use.

### Section 6.14 Kennels

- A. Compliance with other regulations.** A kennel shall be subject to all permit and operational requirements established by County and State regulatory agencies. Kennels shall also follow all applicable provisions of Chapter 4 of the City Code of Ordinances, as amended.
- B. Enclosure.** All animals shall be kept in an enclosed structure, except for occasional walking and outdoor exercise when accompanied and controlled by an employee. No animals shall be permitted outside of the building between the hours of 9:00 p.m. and 8:00 a.m.
- C. Setbacks.** Structures in which animals are kept shall not be located in any required front, side or rear setback area and shall be located at least fifty (50) feet from any dwellings or principal buildings on adjacent property.
- D. Indoor Exercise Areas.** Exercise areas for animals, where they are permitted to roam and play freely, may be permitted within a completely enclosed building. All doors and windows shall be closed when the exercise area is used by any animal.

- E. Outdoor Exercise Areas.** Outdoor exercise areas for animals shall not be permitted unless a facility complies with the following standards:
1. The outdoor exercise area is located behind the rear building line of the principal building.
  2. The outdoor exercise area is located at least sixty (50) feet from any residentially zoned or used property.
  3. The outdoor exercise area shall be completely enclosed on all sides with a masonry wall with a minimum height of five (5) feet and/or the wall of a building located on the lot. Any exterior wall access point to the outdoor exercise area shall include an access gate that is completely opaque.

## Section 6.15 Marijuana Establishments

Marijuana retailers shall conform to the following:

**A. Permitted and prohibited facilities.**

1. **Permitted facilities.** Only the following listed marijuana establishments shall be allowed to be located within the City of Harper Woods after receiving site plan and special land use approval as indicated in [Section 8.03](#): of the Zoning Ordinance.
  - a) Marijuana retailer.
2. **Prohibited facilities.**
  - a) **Mixed-use.** No other principal use, special land use or accessory use shall be permitted or continue to operate on the same lot, parcel or unit upon which a marijuana establishment is located and operated upon.
  - b) **Home occupations and accessory uses.** A marijuana establishment, or activities associated with the facility, shall not be permitted as a home occupation or accessory use.
  - c) **Other marijuana establishments prohibited.** Any marijuana establishment or event not specifically listed as a permitted facility within 6.15.A.1 shall be prohibited within the City of Harper Woods.

**B. Location.** Marijuana establishments permitted to be located within the City of Harper woods shall adhere to the following location requirements:

1. **Child care facilities, schools, and similar facilities buffer.** All lots containing a marijuana establishment must be located at least one-thousand (1,000) feet from the nearest lot line of any child care center or day care center as defined by Section 12-451(3) of the City Code of Ordinances, and one-thousand (1,000) feet from the nearest school as defined under Section 12-451(33) of the City Code of Ordinances.
2. **Marijuana establishments buffer.** All lots containing a marijuana establishment must be located at least one-thousand five-hundred (1,500 feet) from any other lot containing a marijuana establishment, measured from the nearest lot line of the marijuana establishment to the nearest lot line of any other marijuana establishment.

3. **Permitted districts.** A marijuana establishment shall be permitted as a special land use on parcels whose front lot line is the Kelly Road or Harper Avenue right-of-way line and are located in the MU-1 Neighborhood Mixed Use or MU-2 Medium-Density Mixed Use zoning districts.

**C. Use Requirements.** The construction and operation of marijuana establishments shall be pursuant to the following requirements:

1. **State and local licensing and registration.** At the time of application for a special land use permit, the marijuana establishment must provide proof to the City of Harper Woods that the applicant has received pre-qualification to be licensed by the Marijuana Regulatory Agency of the State of Michigan, or its designated successor. Upon approval of a special land use permit, all owners, possessors, occupants, partnerships, corporations, and/or employees shall at all times be in compliance with the laws of the State of Michigan and ordinances of the City of Harper Woods.
2. **Hours of operation.** All marijuana establishments must provide the City of Harper Woods administration and Chief of Police with the hours of operation of the facility, must provide revised hours if adjusted within forty-eight (48) hours of a change and must provide such information if requested by the City of Harper Woods. No marijuana retail establishment shall be open to the public between the hours of 9:00 a.m. and 10:00 p.m.
3. **Separation.** The public or common areas of the retail facility must be separated from restricted or non-public areas of the establishment with permanent, constructed walls.
4. **Security requirements.** All marijuana establishments must have an adequate security plan to prevent access to marijuana by non-authorized personnel, including unauthorized removal of any marijuana. All security plans shall be approved by the State and the City of Harper Woods prior to the operation of any marijuana establishment.
5. **Indoor activity only.** All marijuana establishment activities shall be conducted within an enclosed structure. All outdoor storage is prohibited.
6. **Drive-through prohibited.** Drive-through windows on the premises of a marijuana establishment shall not be permitted.
7. **Obscuring wall.** An obscuring wall five (5) feet in height shall be provided along all property lines abutting property that is zoned for residential, commercial, or office use, except that no wall shall form an obstruction of visibility from the street, as regulated by [Section 4.10](#) of this Ordinance.
8. **Site circulation.** All maneuvering areas, stacking lanes, and exit aprons shall be located on the parcel containing the marijuana establishment. Streets and alleys shall not be used for maneuvering or parking by vehicles accessing the marijuana establishment.
9. **Parking.** Any proposed off-street parking intended to be utilized for carry-out or pre-order service shall not be counted toward the provision off-street parking required by [Section 5.05](#). The applicant must provide proposed operational details to demonstrate to the Planning Commission that the proposed provision of off-street parking will accommodate the off-street parking demand, including but not limited to demand from all staff (including on-site security) and anticipated peak customer traffic.
10. **Traffic impact study.** A traffic impact study, in accordance with [Section 4.12](#), may be required by the Planning Commission if the Commission determines that the traffic generated by the use could adversely affect the area.

11. **Nuisance prohibited.** No marijuana establishment shall be operated in a manner creating dust, fumes or odors detectable to normal senses beyond the boundaries of the property on which the marijuana establishment is operated.

**D. Standards for marijuana retailer approval.** For the Planning Commission to consider approval of a marijuana establishment, the applicant shall submit and provide all information required in these Section, alongside all other requirements applicable to the Project under *Section 8.02 Plan Review for Uses and Structures* and *Section 8.03 Special Land Use*.

## Section 6.16 Motels and Hotels

The following regulations shall apply to motels or hotels:

- A. Lot Area.** The minimum lot area for a motel or hotel shall be three (3) acres.
- B. Accessory Facilities.** A motel or hotel must include at least one (1) of the following amenities:
1. An attached dining room with seating capacity for at least twenty (20) occupants at the same time, serviced by a full-service kitchen, or,
  2. An unattached standard restaurant, as defined in this Ordinance, with seating capacity for not less than fifty (50) occupants, located on the same site as the motel or on a site contiguous with the motel and developed simultaneously or in advance of the motel site.
  3. An attached or detached community garage.
- C. Design.** Each unit available for rental within a motel or hotel shall contain a full bathroom (meaning a plumbed sink, toilet, and shower) and at least one (1) bedroom and encompass a minimum gross floor area of three hundred fifty (350) square feet. Communal bathroom facilities shall not be permitted.
- D. Services.** A motel or hotel shall provide customary motel services, such as cleaning services, laundry service, telephone and/or desk service, and the use of furniture.
- E. Traffic Impact Study.** A traffic impact study, in accordance with *Section 4.12*, may be required by the Planning Commission if the Commission determines that the traffic generated by the use could adversely affect the area.

## Section 6.17 Multiple-Unit Dwelling Units: General

- A. Street design and vehicle circulation.** Street connections shall be provided to allow efficient vehicular and pedestrian connections to adjacent uses and parcels. Ingress and egress from the public streets shall be designed to minimize congestion and interference with normal traffic flow. All interior roads, drives, and parking areas within a multi-family development shall be hard surfaced and provided with curbs and gutters. Roadway drainage shall be appropriately designed such that storm water from the roadway will not drain onto the adjacent lots.
- B. Pedestrian circulation.** Concrete sidewalks no less than five (5) feet wide shall be provided from parking areas, public sidewalks and recreation areas to all building entrances.
- C. Public sidewalks** shall be provided along collector roads and streets with a minimum width of six (6) feet.

- D. Architectural details.** Walls visible from a street or other residential uses shall include windows and architectural features similar to the front facade of the building, including, but not limited to awnings, cornice work, edge detailing or other decorative finish materials. The design of a multi-unit residential building shall be constructed to reflect architectural best practices of the time, where appropriate. The Planning Commission may review the design of features including, but not limited to, façade design, breaks in uniformity of the building shape, pitch and design of roof features (such as cornices, parapets, landscaping, and dormers), and overall site layout, when considering site plan approval. Standing seam metal roofing shall not be permitted.

## Section 6.18 Multiple-Unit Dwellings: Duplex and Triplex in R-1 Zones

The construction of duplex and triplex dwellings in the R-1 Low-Density Residential and R-2 Moderate-Density Residential districts shall be pursuant to the following requirements:

- A. Special land use.** The construction of any duplex or triplex dwellings shall only be permitted upon approval of a Special Land Use permit by the City Council.
- B. Lot width.** Duplexes and triplexes shall have a minimum lot width of fifty (50) feet per unit. A stacked duplex shall have a minimum lot width of eighty (80) feet.
- C. Minimum building area.** Duplexes and triplexes shall have a minimum floor area of no less than eight hundred (800) square feet, not including the floor area of basements, breezeways, unenclosed porches, terraces, or utility rooms.
- D. Other lot dimensions.** All other dimensional standards for a duplex or triplex shall be subject to the regulations of the underlying zoning district, pursuant to [Section 5.02](#) of the Zoning Ordinance.
- E. Parking.** A shared driveway or other form of off-street parking shall provide enough space for all units on a parcel, subject to the applicable standards in [Table 5.04.A](#) of the Zoning Ordinance.
- F. Conversions.** The conversion of a single-unit dwelling to a duplex or triplex in any zoning district shall be subject to Special Land Use permit approval by the City Council. A conversion shall only be permitted if the standards of this Section, and standards pursuant to [Article 5 Site Development Standards](#) of the Zoning Ordinance, are met.
- G. Accessory dwelling units.** The addition of accessory dwelling units (ADUs) to a duplex or triplex shall not be permitted. An existing ADU shall not be incorporated into a conversion from a single-unit dwelling to a duplex or triplex.

## Section 6.19 Multiple-Unit Dwellings: Townhouses

The construction of townhouses, where four or more single-unit structures are located on a single parcel, are attached horizontally, and share common and visible front and rear walls, shall conform to the following requirements.

- A. Lot dimensions.** The parcel upon which a townhouse development is constructed shall meet the lot area, lot width, setback, and height requirements of the underlying zoning district pursuant to [Section 5.01](#) of the Zoning Ordinance.
- B. Design requirements.** The following requirements shall apply to the design of townhouses:

1. Townhouses shall be attached side-by-side, with each unit sharing the same width wall-to-wall and the same height from foundation to roof.
  2. Design shall reflect architectural best practices and focus on a variability among units that make each townhouse unit visually distinct without creating visible physical separation between units.
  3. All design features shall be compliant with applicable City construction codes and state and federal laws.
  4. The main entrance for each unit shall be visible from the fronting street. Townhouse buildings may share a common porch if proposed, but the design shall not interfere with the accessibility of any entrance.
- C. Parking.** Parking shall be located either at the rear of the building or on the ground floor with the townhouses located above and with pedestrian access to the rear. Parking in the side yards shall not be permitted.
- D. Height.** Townhouses without ground floor parking shall be no taller than the allowable building height in the underlying zoning district. The total structural height of townhouses that are situated above ground-floor parking shall be no taller than three (3) stories) or thirty-two (32) feet, whichever is less.
- E. Floor-to-floor height.** The height for each story of a unit shall be no more than ten feet (10) and six (6) inches.

## Section 6.20 Multiple-Unit Dwellings: Cottage Courts

The construction of cottage courts, where multiple detached single-unit dwellings surround a common courtyard or plaza, shall be permitted in the City pursuant to the following provisions:

- A. Contiguity.** A cottage court shall be confined to a single, contiguous parcel. Cottage courts on neighboring or nearby parcels shall be considered different from one another and shall be regulated with individual setback and density standards for each parcel in accordance with [Section 5.01 Schedule of Dimensional Regulations](#).
- B. Lot and open space requirements.** The following provisions shall pertain to the dimensions of the land and open space for a cottage court.
1. **Lot area.** The minimum lot size for a cottage court shall add up to no less than two thousand (2,000) square feet per dwelling unit.
  2. **Maximum density.** A single cottage court shall have no more than 18 dwelling units per acre.
  3. **Minimum number of buildings.** A cottage court shall have no fewer than three (3) buildings when proposed for development.
  4. **Open space.** The open space provided for a cottage court, including both the central courtyard and space in between dwelling units, shall add up to no less than 400 square feet per dwelling unit.
    - a) The total land area for required setbacks, stormwater management facilities, driveways and parking stalls shall not be included in the minimum open space or court calculations.

- b) Each central open space or court shall have at least one boundary along the property line fronting a street. The side facing the street shall also include a sidewalk no less than five (5) feet wide and shall connect to that street's sidewalk on either side of the property.

**C. Setbacks.** Cottage courts shall be subject to the following minimum setback requirements:

1. **Between units:** Five (5) feet.
2. **Front yard:** Ten (10) feet
3. **Rear yard:** Fifteen (15) feet
4. **Side yard:** Ten (10) feet per side

**D. Principal building requirements.** The following standards shall apply to the construction and design of cottage court dwelling units.

1. **Entrances.** Each unit shall have an entrance facing the court, with direct sidewalk connectivity from the unit to the street.
2. **Minimum and maximum square feet.** Cottages shall have a ground floor area of no less than four hundred (400) square feet and no more than one thousand (1,000) square feet.

**E. Parking and accessory structure requirements.** The following standards shall apply to any accessory structures associated with dwelling units, as well as facilities to allow for parking:

1. **Accessory structures.** There shall be no more than one (1) accessory structure per dwelling unit, which shall not exceed the ground floor area of the dwelling unit that it is accessory to.
2. **Parking.** Off-street parking on the subject property shall be in compliance with the parking standards of Sec. 5.04. Off-street parking is prohibited between dwelling units within the central designated court, as well as between the development and any abutting road right-of-way or utility or access easements.

## Section 6.21 Multiple-Unit Dwellings: Housing for older adults

**A.** In recognition of the need for housing for aging residents within the city, the following provisions shall apply to different types of multi-unit dwellings for older adults, which this Zoning Ordinance defines as persons fifty-five (55) years of age or older. The above provisions for multi-unit residential dwellings shall also apply to this section.

1. **Classification.** A dwelling unit or development shall only be classified as "housing for older adults" if there is a requirement that the tenant or the owner be at least fifty-five (55) years old at the time of leasing or purchasing the unit or property.
2. **Development standards.** The following standards shall apply for each type of housing for older adults:
  - a) **Detached older adult housing communities.** The following standards apply to detached residential dwelling units for older adults:
    - 1) Dwelling units within a building shall average five hundred (500) square feet in floor area, not including kitchen or sanitary facilities.

- 2) Total lot coverage of the all buildings, including dwelling units and related service buildings and in-ground pools (water area), shall not exceed thirty-five (35) percent of the total site, exclusive of any dedicated public right-of-way.
- b) **Multiple-unit residential housing for older adults.** In recognition of the need for housing for aging residents within the city, the following provisions shall apply to different types of multi-unit dwellings for older adults, which this Section shall define as those fifty-five (55) years of age or older. The above provisions for multi-unit residential dwellings shall also apply to this section:
  - 1) Minimum net lot area shall be two and one-half (2½) acre.
  - 2) Total floor area of all buildings on the lot shall not exceed a floor area ratio of one hundred (100) percent. For example, if the first floor of a building on a one (1) acre lot has a gross floor area equal to one-half (½) acre, then the second floor shall have a floor area no larger than one-half (½) acre.
  - 3) In addition to the specific requirements for the side, front and rear yards specified in Section 5.02, each side and front yard shall be increased by five (5) feet for every story in the building the major portion of which is above seventy (70) feet in height. Where two (2) or more buildings are to be located on a single lot, the space between buildings shall be at least (40) feet plus five (5) feet for each story by which the building exceeds seven (7) stories.
- c) **Requirements for planned multiple residential housing and housing for older adults.** Planned multiple residential housing and older adult projects exceeding two (2) stories in height shall comply with the following requirements:
  - 1) Minimum net lot area shall be two and one-half (2½) acres.
  - 2) Total floor area of all buildings on the lot shall not exceed a floor area ratio of one hundred (100) percent. For example, if the first floor of a building on a one (1) acre lot has a gross floor area equal to one-half (½) acre, then the second floor shall have a floor area no larger than one-half (½) acre.
  - 3) In addition to the specific requirements for the side, front and rear yards specified in [Section 5.02](#), each side and front yard shall be increased by five (5) feet for every story in the building the major portion of which is above seventy (70) feet in height. Where two (2) or more buildings are to be located on a single lot, the space between buildings shall be at least forty (40) feet plus five (5) feet for each story by which the building exceeds seven (7) stories.
- d) **Incidental services in high-rise multiple-unit dwelling buildings for older adults.** Incidental services for the convenience of occupants, such as news vendors, food service stands, restaurants, personal service establishments, and similar uses, shall be permitted within high-rise apartment buildings specifically serving older adults, provided the following conditions are fulfilled:
  - 1) At least seventy-five (75) dwelling units are contained within the apartment building or buildings.
  - 2) A total of not more than two (2) percent of the usable floor area of the building is utilized for said incidental services.

- 3) All such incidental services are situated within the interior of the building or campus so that no part thereof is directly accessible to the general public or to tenants from any street or public or private walkway.
- 4) No sign or window display is discernible or visible from a sidewalk, street, or public or private way.
- 5) Such incidental services are not provided on the same floor as dwelling units are situated, unless separated therefrom by an un-pierced fire wall.

## Section 6.22 Nursing and Convalescent Care Facilities

The following regulations shall apply to facilities for providing short- and medium-term care facilities for assisted living and memory care, hospice, and convalescent and rehabilitative care:

- A. Minimum lot area.** The minimum lot area for such facilities shall be one (1) acre.
- B. Frontage and access.** Such uses shall front onto a major thoroughfare and the main means of access to the site for residents or patients, visitors, and employees shall be via the thoroughfare. In no case shall primary access to a nursing home, convalescent home, or rest home be limited to a residential street.
- C. Setbacks.** The principal building and all accessory buildings shall be set back a minimum distance of twenty-five (25) feet from any property lines.
- D. Minimum unit size.** Each resident or patient unit shall have a minimum area of four hundred (400) square feet.
- E. Open space.** Any such facility shall provide a minimum of five hundred (500) square feet of outdoor open space for every bed used or intended to be used. The open space shall be landscaped and shall include places for walking and sitting. Off-street parking areas, driveways, and accessory uses or areas shall not be counted as required open space.
- F. State and federal regulations.** Nursing homes, hospices, convalescent homes, rest homes, orphanages and half-way houses shall be constructed, maintained, and operated in conformance with applicable state and federal laws.
- G. Separation requirements.** No foster care group home shall be located closer than one-thousand-five hundred (1,500) feet to any other state-licensed nursing or convalescent facility, measured from the nearest wall of each such structure. The Planning Commission may permit a smaller separation between such facilities upon determining that such action will not result in an excessive concentration of such facilities in a single neighborhood.

## Section 6.23 Open-Air Businesses

The following regulations shall apply to permanent open-air businesses:

- A. Minimum Lot Area.** The minimum lot area for open-air businesses shall be five thousand (5,000) square feet.

- B. Driveway Location.** The nearest edge of any driveway serving an open-air business shall be located at least forty (40) feet from any street or road intersection (as measured from the nearest intersection right-of-way) and at least ten (10) feet from any side property line.
- C. Parking Setback.** Parking shall be setback a minimum of ten (10) feet from any street right-of-way line.
- D. Lot Width.** The minimum lot width for open-air businesses shall be fifty (50) feet.
- E. Loading and Parking.** All loading and parking areas for open-air businesses shall be confined within the boundaries of the site, and shall not be permitted to spill over onto adjacent roads or alleys.
- F. Outdoor Display of Vehicles.** The outdoor display of new or used automobiles, boats, manufactured housing units, recreational vehicles, trailers, trucks, or tractors that are for sale, rent, or lease shall comply with the requirements in [Section 6.30](#).
- G. Plant Material Nursery.** Nurseries that deal with plant materials shall comply with the following:
  - 1. Plant storage and display areas shall comply with the minimum setback requirements for the district in which the nursery is located.
  - 2. The storage of soil, wood chips, fertilizer, and similar loosely packaged materials shall be contained and covered to prevent it from blowing onto adjacent properties.

## Section 6.24 Places of Worship

The following regulations shall apply to faith-based institutions that provide facilities for the gathering of congregations for religious services and activities. These provisions shall also apply to uses incidental to the primary place of worship, such as residences and schools.

- A. Setbacks.** Minimum side yard and rear yard width shall be not less than twenty-five (25) feet.
- B. Lot width.** Minimum lot width shall be one-hundred-fifty (150) feet.
- C. Height.** For every foot of height by which the building, exclusive of spire, exceed the maximum height limitation for the district, an additional (to the minimum) foot of front, side or rear yard setback shall be provided.
- D. Access.** The lot location shall be such that at least one (1) property line abuts a major thoroughfare or collector street.
- E. Distance from dwelling.** The main and accessory buildings shall not be located nearer than one hundred (100) feet to any adjacent dwelling.
- F. Parking.** There must be compliance with off-street parking requirements as specified under [Section 5.04.C](#).
- G. No Parking in front yard.** Off-street parking shall be prohibited within the required front yard setback area.
- H. Accessory facilities.** Accessory facilities such as fellowship or social hall, kitchen, gymnasium or recreation facilities, and other uses incidental to the primary use shall be permitted, subject to the requirements of this Ordinance.

- I. **Accessory dwelling units for religious leadership.** Dwelling units for religious leaders and their families shall be permitted, provided that all dimensional requirements for the property in its underlying zoning district are conformed to. The dwelling unit or units shall not be constructed in a manner that they become the principal use of the property, and shall be located in the rear yard of the place of worship.
- J. **Monasteries, Convents, and Residences of Religious Orders.** The below provisions shall apply to buildings used as a residence, operated as a single housekeeping unit, solely by and for a group of individuals who have professed vows in a religious order and who live together as a community under the direction of a local supervisor designated by the order, without more than two (2) persons occupying a bedroom.
  1. **Primary residence.** The dwelling shall be the primary and permanent dwelling of the residents. Meals or other services provided on the premises shall be available only to residents, employees and occasional guests of the establishment.
  2. **Residents.** The number of residents shall be limited to the total number of bedrooms in the dwelling unit.
  3. **Parking.** Off-street parking shall be provided for residents outside of any required front yard. Stacking of more than two (2) vehicles in a driveway is prohibited.
  4. **Landscaping.** Site landscaping and screening from adjacent residences and parking areas or any outdoor eating or activity area, shall be provided in compliance with [Section 5.05](#).

## Section 6.25 Planned Unit Developments (PUD)

### A. Intent.

1. The intent of this section is to provide, through the use of the planned unit development (PUD) concept, an added degree of flexibility in the density, placement, bulk and interrelation of buildings and uses, and the implementation of new design concepts so as to encourage a more efficient and innovative use of land and public services and the preservation of natural features through the use of a unified, flexible, planning approach, while at the same time maintaining adequate amounts of light, air, access and required open space and facilitating the economical provisions of public services and utilities. To further this intent, the respective zoning district regulations may be waived by City Council, as part of a PUD, after recommendation of the Planning Commission and as provided for in this section. The general boundaries of any PUD approved by Council shall be indicated on the Zoning Map as information for zoning purposes.
2. The PUD shall not be used for the sole purpose of avoiding the requirements for dimensional variances involving uses that would already be permitted in the underlying zoning district(s).
3. The development permitted under this section shall be considered as an optional means of development. The availability of this option imposes no obligation on the City to approve a proposed PUD.

### B. Eligibility criteria. The following provisions shall apply to all PUD's:

1. A PUD may be applied for in any zoning district. A PUD application shall require a rezoning by way of an amendment to this ordinance upon the recommendation of the Planning Commission and approval by City Council.

2. Adequate public health, safety, and welfare protection mechanisms shall be designed into the PUD to ensure the compatibility of varied land uses both within and outside the development for any land use or mix of land uses authorized in this ordinance, which may be included in a PUD.
3. A PUD zoning classification may only be approved in conjunction with an approved PUD site plan.
4. The PUD shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community, and shall result in a higher quality of development than could be achieved under conventional zoning.
5. The proposed type and density of use shall not: result in an unreasonable increase in the use of public services, facilities and utilities; create a demand that exceeds the capacity of utilities; and place an unreasonable burden upon the subject site, surrounding land, property owners and occupants, or the natural environment.
6. The proposed PUD shall not have an adverse impact upon the City's Master Plan. Notwithstanding this requirement, the City may approve a PUD proposal that includes uses or residential density which are not called for in the Master Plan, provided that the City Council, upon receiving a recommendation from the Planning Commission, determines that such a deviation from the Master Plan is justified in light of the current planning and development objectives of the City.
7. However, upon approval of a PUD, the Planning Commission shall initiate action where necessary to amend the Master Plan so that the Future Land Use map designation is consistent with the approved PUD.
8. The proposed PUD shall not result in an unreasonable negative economic impact upon surrounding properties.
9. The proposed PUD shall preserve distinctive natural features on the site to the maximum extent feasible, such as, but not limited to: woodlands, wetlands, rolling topography, natural drainage courses, etc. PUDs shall comply with all of the City's ordinances that protect natural features.
10. The proposed PUD shall either: be under single ownership or control such that there is a single person or entity having responsibility for assuring completion of the project in conformity with this chapter, or if there is more than one (1) owner or entity with an interest in the project, then there shall be a commitment in writing by each owner and/or entity to work in unison to complete the project in complete conformity with this chapter.
11. The applicant(s) shall provide legal documentation of single ownership, single control, or joint unified control in the form of agreements, contracts, covenants, and deed restrictions which indicate that the development can be completed as shown on the plans, and further, that all portions of the development that are not to be maintained or operated at public expense will continue to be operated and maintained by the developers or their successors. These legal documents shall bind all development successors in title to any commitments made as a part of the documents. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is given to the Building Department.

**C. Amendment required.** The approval of a PUD application shall constitute an amendment to the Zoning Ordinance to revise the Zoning Map and designate the subject property as "Planned Unit Development (PUD)." Approval granted under this section, including all aspects of the final site plan and conditions imposed on it, shall constitute an inseparable part of the zoning amendment.

**D. Permitted uses.** Any land use authorized in this Zoning Ordinance may be included in a PUD as a principal or accessory use, provided that:

1. The predominant use on the site, based on acreage, shall be consistent with the uses specified for the parcel(s) on the City's Future Land Use Map and Zoning Map. Where the predominant uses are not consistent, prior to PUD approval an amendment to the Future Land Use Map may be required and an amendment to the Zoning Map may be required, as noted in item 5, below.
2. There shall be a reasonably harmonious relationship between the location of buildings on the site relative to buildings on lands in the surrounding area.
3. Residential, Moderate-Density, office, and public uses may be developed together in a PUD, provided the uses are compatible and complementary, demonstrating good site design and planning principles.
4. The mix of uses and the arrangement of those uses within a PUD shall not impair the public health, safety, welfare, or quality of life of residents or the community as a whole.
5. Where the existing underlying zoning district is residential, nonresidential uses may be permitted as a part of a PUD provided that such nonresidential uses occupy a maximum of twenty (20) percent of the buildable acreage of the site, subject to the following conditions:
  - a) The mix of uses must be consistent with the planned uses on the Future Land Use Map.
  - b) An amendment to the Zoning Map to change the underlying zoning shall be required prior to final PUD approval if more than twenty (20) percent of the acreage in a residential PUD is proposed to be occupied by nonresidential uses.
  - c) For the purposes of this paragraph (5), nonresidential uses may include, but is not limited to: commercial, office, research, public (e.g., libraries, post offices, and government facilities), and recreational.

**E. Review procedures.**

1. **Pre-Application Meeting.** In order to facilitate review of a PUD proposal in a timely manner, the applicant is highly encouraged to schedule an informal preapplication conference with the City Manager, City Planner, City Engineer, City Attorney, and staff. The purpose of such a conference is to provide information and guidance to the applicant that will assist in preparation of the application and supporting materials.

The applicant shall present at such a conference or conferences, at minimum, a conceptual plan of the proposed planned development, consisting of the sketch plan information required in [Section 8.02.B](#).

No formal action shall be taken at a pre-application conference. At any time during the course of preparation of plans prior to submission of a formal application, the City shall upon request provide information concerning Zoning Ordinance procedures and standards.

2. **PUD Plan Review.** PUD projects are required to undergo a review process by the Planning Commission and City Council in order to facilitate a complete and thorough review prior to final approval. This requirement is deemed necessary because PUD projects are generally large or complex projects with higher intensity development that could have a major impact on surrounding land uses and significantly affect the health, safety and general welfare of City residents.

- a) **Planning Commission PUD Review and Recommendation.** A public hearing on the PUD shall be held by the Planning Commission at its review. The public hearing shall be noticed in accordance with [Section 8.04](#). After the public hearing, the Planning Commission shall make a recommendation to City Council of approval, approval with modifications, or denial of the PUD application. If the application is incomplete or requires additional information, the Planning Commission may defer action on the application until the proper information has been submitted.
  - b) **City Council PUD Review and Final Action.** Following receipt of the Planning Commission's review recommendation, the application shall be placed on the City Council's next available meeting agenda. The City Council shall review the PUD plan, together with the findings of the Planning Commission and the Planning Commission minutes, and the reports from the City Planner, City Engineer, City Attorney, and other review agencies. The site plan must meet the approval criteria of [Section 8.02.C](#) and the uses in the PUD must meet the approval criteria of [Section 8.02](#). Following completion of its review, the City Council shall approve, approve with conditions, or deny the PUD application. If the City Council determines that there is additional information needed to make a decision, then the Council may defer the application to a subsequent meeting and/or remand the case to the Planning Commission for further review.
  - c) **PUD Agreement.** If the City Council approves the PUD proposal, the City and applicant shall execute a PUD agreement, which shall be recorded in the office of the Wayne County Register of Deeds. Final approval of the PUD shall become effective upon recording of the agreement. Evidence of the recorded agreement shall be submitted to the City, whereupon the designation on the Zoning Map will be changed to "PUD."
  - d) **Effect of Approval.**
    - 1) Approval of a PUD proposal shall constitute an amendment to the Zoning Ordinance. All improvements and use of the site shall be in conformity with the PUD amendment and any conditions imposed. Notice of the adoption of the amendment shall be published by the City in accordance with the requirements set forth in this ordinance.
    - 2) Approval of a PUD application by Council confers on the applicant and any subsequent owners of the planned unit development property the right to utilize the property included as part of the approved PUD in accordance with the approved site plan. However, for the total PUD or for each portion of the PUD, if phasing of development is planned, a site plan review is required for each phase in accordance with [Section 8.02](#), prior to the issuance of building permits, and for any portion of the PUD having an approved site plan, in accordance with said [Section 8.02](#), the approved site plan shall take precedence over any previously-approved plan.
    - 3) The Building Superintendent shall inspect the development at each stage to ensure reasonable compliance with the conditions of the approved planned unit development or approved site plans, as applicable.
- F. Application Data Requirements.** Applications for PUD approval shall include all applicable data required for site plan review as specified in [Section 8.02.B.4](#). In addition, the application shall contain the following:
1. **An overall plan for the PUD.** The overall plan shall graphically represent the development concept, using maps and illustrations to indicate all of the required information. The overall plan shall clearly delineate each type of residential use; office, commercial and other nonresidential use; each type of open space; community facilities and public areas; and other types of land use.

2. **A map and written explanation** of the relationship of the proposed PUD to the City's Master Plan.
3. **Information concerning traffic generated by the proposed PUD.** Sufficient information shall be provided to allow the City to evaluate the impact of the proposed development on adjoining roads. Traffic-related information which is provided shall be estimates of the volume of traffic generated by each use, the peak hour volume of traffic expected to be generated by the proposed development, a schematic drawing indicating vehicular movement through the site, including anticipated turning movements, and measures being proposed to alleviate the impact of the development on the circulation system.
4. **Analysis of the fiscal impact of the proposed PUD on the City and the school district.**
5. **Evidence of market need for the proposed use(s) and the feasibility of completing the project in its entirety.** This requirement may be waived by the Planning Commission upon making the determination, based on existing evidence and knowledge about the local economy, that market support does exist for the proposed uses.
6. **Legal documentation of single ownership or control.** The documentation shall be in the form of agreements, contracts, covenants, and deed restriction which indicate that the development can be completed as shown on the plans, and further, that all portions of the development that are not to be maintained at public expense will continue to be operated and maintained by the developers or their successors.
7. **A specific schedule of the intended development and construction details,** including the phasing or timing of all proposed improvements.
8. **A draft of ownership and governance documents.** These documents shall include the following.
  - a) Deeds of ownership.
  - b) Warranties guaranteeing ownership conveyed and described in the deeds.
  - c) A list of covenants, conditions, and restrictions that are conditions of ownership upon the purchasers and owners in the Planned Development.
  - d) Association by-laws (for example, condominium association by-laws) which describe how the association is organized; the duties of the association to operate, manage, and maintain common elements of the Planned
  - e) Development; and the duties of individual shareholders to manage and maintain their own units.

**G. Review and Approval Standards.** The PUD proposal must meet all of the approval criteria of [Section 8.02.B.8](#).

**H. Modifications.**

1. **Minor Modifications.** Minor modifications, as stated in [Section 8.02](#), may be permitted by the Planning Commission, following normal site plan review procedures outlined in Sections 8.02, subject to the finding that:
  - a) Such changes will not adversely affect the initial basis for granting approval.
  - b) Such minor modifications will not adversely affect the overall PUD in light of the intent and purpose of such development.

2. **Other Modifications.** Modifications that are not classified as minor modifications upon Zoning Administrator review shall be reviewed in accordance with the procedures set forth for approval of a new proposal.
  - I. **Performance Guarantee.** The Planning Commission or City Council may require a performance guarantee from the applicant in accordance with [Section 8.12](#).
  - J. **Zoning Board of Appeals Authority.** The Zoning Board of Appeals shall not have the authority to consider an appeal of a decision by the City Council or Planning Commission concerning a PUD proposal.
  - K. **Expiration of Approval.** If construction has not commenced within twenty-four (24) months of final approval, the approval becomes null and void and a new application for the PUD shall be required. The City Council may grant a twelve (12) month extension, upon written request from the applicant, if it finds that the approved site plan adequately represents current conditions on and surrounding the site. The written request for extension must be received prior to the site plan expiration date. In the event that an approved PUD becomes null and void, the City shall initiate proceedings to amend the zoning classification of the site.

## Section 6.26 Self-Storage Facilities

The following regulations shall apply to self-storage facilities:

- A. **Lot area.** The minimum lot area for self-storage facilities shall be two (2) acres.
- B. **Permitted use.** Self-storage facilities shall provide for storage only. All storage must be completely contained within an enclosed building.
- C. **Site enclosure.** The entire site, exclusive of access drives, shall be enclosed with a six (6) foot high masonry wall, constructed in accordance with Section 5.05. A six (6) foot chain link fence may be permitted along property lines that do not abut a residentially zoned district or residential use.
- D. **Orientation of open bays.** Buildings must be oriented so that open service bays do not face adjacent major thoroughfares or arterial roads unless screened by an adjoining lot, building, or obscuring wall in compliance with [Section 5.05](#).
- E. **Exterior appearance.** The exterior of any self-storage facility shall be of finished quality and design, compatible with the design of structures on surrounding property.
- F. **On-site circulation and parking.**
  1. All one-way driveways shall be designed with one (1) ten (10) foot wide loading/unloading lane and one (1) fifteen (15) foot travel lane.
  2. All two-way driveways shall be designed with one (1) ten (10) foot wide loading/unloading lane and two (2) twelve (12) foot travel lanes.
  3. The parking lanes may be eliminated if the driveway does not serve storage units. Signs and painted lines shall be used to indicate parking and traffic direction throughout the site.

## Section 6.27 Single-Unit Cluster Housing Option (CHO)

Except as stated within this section, an application for approval of a site plan for a residential cluster option shall follow the procedures and requirements established for a special land use approval as stated in Section 8.03. The following standards shall apply to single family cluster projects:

- A. Intent.** The intent of the CHO is to provide the opportunity for creative design in single family residential districts to accomplish the following primary objectives:
1. To promote a higher quality of development than could be achieved under conventional zoning regulations.
  2. To encourage innovation in land use and variety in design, layout, and type of structures constructed.
  3. To provide a feasible means of residential development on sites that would otherwise be impracticably difficult to develop because of the parcel size or shape, the character of surrounding land uses, or other constraints.
- B. Eligibility Criteria.**
1. In considering any proposal for the CHO, the Planning Commission shall determine that the proposal satisfies one or more of the following eligibility criteria:
    - a) The overall impact of the development will provide a recognizable and substantial benefit to its ultimate residents and to the community.
    - b) The parcel has narrow width, shallow depth, or an unusual configuration that is a substantial detriment to development as a conventional subdivision.
    - c) A significant portion of the property's perimeter is bordered by a major thoroughfare so that, if developed as a conventional subdivision, a substantial number of the lots would abut the thoroughfare and be impacted by negative traffic noise and lights.
    - d) A substantial portion of the property's perimeter is bordered by land that is zoned or used for more intensive non-residential development that would be potentially incompatible with single family residents without special design preferences.
    - e) The parcel contains natural assets that would be preserved or enhanced through the use of cluster development. Such assets may include stands of trees, land that serves as a habitat for wildlife, unusual topographic features, or other natural assets that should be preserved.
  2. An application for CHO shall be accompanied by written and graphic documentation demonstrating to the Planning Commission that the proposal satisfies one or more of the listed eligibility criteria.
- C. Project Density.** The overall density of development on a site that qualifies for cluster development shall not exceed the standards for net density as established by the underlying zoning regulations for the district in which the site is located. The net density of a development shall be computed by dividing the total number of units proposed to be devoted to residential use (residential lots and open space, excluding public and private streets and public right-of-way). The quotient shall be rounded to the nearest tenth of an acre.

For the purposes of computing density, allowable acreage shall include the following:

1. All areas to be used for residential purposes, including off-street parking and private access roads, but excluding public street rights-of-way;
2. Dedicated private parks and/or common open space devoted for use of residents of the single family cluster development.

**D. Site Design Requirements.** CHO developments shall comply with the following requirements:

1. **Clustering Alternatives.**

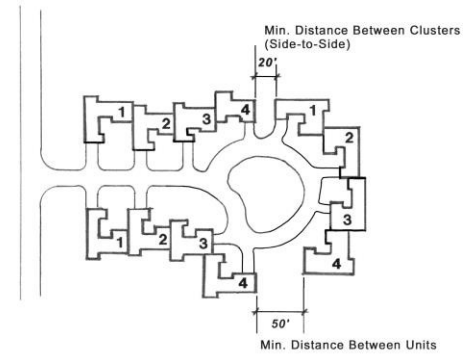
- a) **Attached Unit Clusters.** A maximum of four (4) single-unit dwelling units may be attached to each other provided that measures are taken to avoid monotonous facade design or the appearance of massive buildings that are out-of-scale with surrounding single-family development. The attached units shall be offset from one another, and/or different design details (i.e., different building entrance designs, different building materials, etc.) shall be used for each unit. (See Figure 6.27.A: Attached Unit Cluster.)
- b) **Detached Unit Clusters.** A maximum of four (4) single-unit detached units may be combined into a single cluster, provided that the units shall be spaced not less than ten (10) feet apart. This spacing requirement may be waived or modified by the Planning Commission during site plan review, based upon a favorable recommendation of the City Fire Chief. (See Figure 6.27.B: Detached Unit Cluster.)

2. **Open Space.**

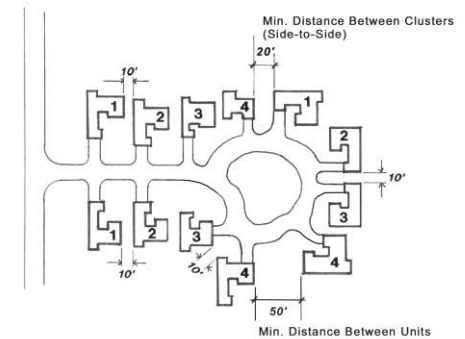
- a) **General requirements.** Single-unit cluster developments shall provide and must maintain at least fifteen (15) percent of the site as dedicated common open space.
- b) **Water bodies and basins.** Up to twenty-five (25) percent of the required open space may include the area of any created water bodies or water detention/retention basins.
- c) **Conveyance of open space.** The required open space shall be set aside by the developer through an irrevocable conveyance, such as a deed restriction(s) or covenant(s) that run with the land, assuring that the open space will be developed, dedicated and continually maintained according to the site plan and never changed to another use.

3. **Setbacks.**

- a) **Setbacks between clusters.** Each cluster of attached or detached dwelling units shall be set back a minimum distance of fifty (50) feet from any other cluster, except that the minimum setback for adjoining clusters that have a side-to-side building relationship shall be twenty (20) feet.
- b) **Building setbacks.** Buildings within each cluster shall comply with the following minimum setbacks:



Attached Unit Cluster



Detached Unit Cluster

- 1) Internal private street: twenty (20) feet from edge of traveled roadway;
  - 2) Public street right-of-way: twenty-five (25) feet;
  - 3) Property line (other than street right-of-way): twenty-five (25) feet;
  - 4) Utility easement (other than individual unit lead): twelve (12) feet.
4. **Landscaping.** Single-unit cluster developments shall comply with the landscaping requirements specified in [Section 5.05](#).
  5. **Transition in density.** Where the parcel proposed for use as a cluster development abuts a conventional single-unit development, the cluster development shall be designed to provide an orderly transition between the two developments. Such a transition may be achieved by providing a buffer zone consisting of any of the following: open space, additional landscaping, berms, changes in topography, or similar measures.
  6. **Sidewalks.** Sidewalks shall be provided along all public and private roads within the cluster development.
  7. **Utility connections.** Each dwelling unit shall be separately connected and metered for City water and sewer service.
- E. Determination of eligibility.** The application for cluster development shall include documentation that the proposal satisfies one or more of the eligibility criteria set forth in subsection B.1. The Planning Commission shall make a preliminary determination whether the proposal qualifies for the cluster option, based on the submitted documentation.
- F. Effect of preliminary eligibility determination.** Preliminary determination by the Planning Commission that a parcel qualifies for cluster development does not assure approval of the site plan. Such a determination, however, does give the applicant the opportunity to proceed further with site plan review.
- G. Site plan review.** A cluster housing development shall be subject to the site plan review requirements in [Section 8.02](#) of this Ordinance, as well as the additional requirements in this Section.
- H. Information required for site plan review.** In addition to the information required in Section 8.02.C-D, as a part of site plan review, the following information shall be included on all cluster option plans submitted for review:
1. Acreage and density computations.
  2. Setbacks from all property lines and distances between all buildings and between buildings and roads.
  3. Proposed landscape screening along the perimeter and within the site.
  4. Specific locations of significant site features such as tree stands and water retention and detention areas.
  5. Delineation of open space areas and detailed information concerning common access and proposed landscaping or other improvements within the open space.
- I. Recording of Planning Commission action.** Each action taken with reference to a cluster development proposal, including the grounds for the action taken, shall be duly recorded in the minutes of the Planning Commission.

- J. Recording of documents.** If the Planning Commission approves the cluster development proposal, all requirements and conditions upon which such approval is based shall be included as part of the approved site plan. Easements, deed covenants or deed restrictions shall be drafted into recordable forms, reviewed and approved as to form by the City Attorney, and filed by the applicant, with the appropriate County agency prior to the issuance of a building permit for any construction.
- K. Performance guarantee.** A performance guarantee shall be deposited with the City to ensure faithful completion of improvements, in accordance with [Section 8.12](#).

## Section 6.28 Temporary Uses

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

- A. Uses Permitted as Temporary.** The Community Development Director may permit uses and the occupancy of structures that are consistent with the uses otherwise permitted in a zoning district, but which are temporary and do not require the construction of any capital improvement of a structural nature. In no case shall a use not otherwise allowable in a zoning district be permitted on a temporary basis. No temporary structure shall be used for residential purposes and temporary residential use of property is not allowed.
- B. Permitted Time Period.** Temporary uses and the temporary occupancy of structures may be granted for periods of not more than 14 consecutive days nor more than 42 total days within a 12-month calendar year, except as follows:
- 1. Real estate sales offices.** Sales offices are allowed on residential development sites in any zoning district until all units, lots or houses are sold. Use of the sales office to market sites outside of the project is prohibited.
  - 2. Temporary parking of construction equipment during construction.** Temporary use of non-loading areas for the parking or storage of tractor trailers, office trailers, construction equipment and materials, or intermodal shipping containers, or for construction worker parking, during construction or renovation, is allowed in all zoning districts, subject to the standards of this section.
  - 3. Outdoor sales of seasonal goods,** including flowers, pumpkins, Christmas trees and holiday baskets, may be allowed for the duration of the applicable season, but in no case to exceed 90 consecutive days; provided, however, that retail sales and display of fireworks shall only be allowed as provided for by ordinance or resolution.
- C. Temporary Outdoor Sales.** Outdoor sales areas, except as otherwise provided in this chapter, are expressly prohibited. However, temporary outdoor sales may, be approved by the Community Development Director after obtaining a permit. No more than three temporary outdoor sales permits shall be issued for any given location within a single calendar year. In addition, one grand opening sale per business shall be permitted, provided the sale is conducted within 60 days from the day the use is first opened for business. The one-time grand opening sale shall be held for not more than 14 continuous days. Outdoor sales areas shall be subject to the following restrictions:

1. The items proposed to be sold outdoors are related to and displayed immediately adjacent to an existing licensed place of business.
2. The proposed sales area must constitute an accessory use to the principal use of the premises or as provided by a charitable or nonprofit organization.
3. A minimum width of five feet shall be maintained as a pedestrian way in front of any business conducting an outdoor sale. No person licensed under this section shall display any goods or merchandise in such a manner as to interfere with pedestrian or vehicular traffic safety, nor shall any display violate any fire or police regulation, or this Code.

**D. Application Required.** Temporary uses and temporary occupancy of structures shall not be permitted to operate without first applying for and receiving an approved temporary use permit. A written application (on a form provided by the city) for a temporary use permit required by this section shall be signed by the applicant and the legal owner of the property and shall be filed with the City. The application shall be submitted at least fourteen (14) days before the first date of the proposed temporary use.

1. **Required Licenses.** An application for a temporary use shall be accompanied by an approved license, permit or any other necessary approval from any other local, county or state agency that has authority to regulate such use, which may include, but is not limited to, the county health department.

**E. Fee Required.** A fee established by resolution of the city council shall be paid at the time the application is filed.

**F. Approval Standards.** The Community Development Director, shall review a temporary use application for compliance with the following standards and shall only issue a permit upon their determination that the standards listed below and all other applicable standards of this ordinance have been met.

1. **Compliance with all zoning ordinance standards** for the use shall be considered and may be modified as deemed appropriate by the Community Development Director given the limited time frame of the requested use. Such modifications shall be deemed to be the least modification necessary to permit the temporary use while ensuring that there shall be no negative impacts to the public health, safety, peace, and general welfare of the city. The Community Development Director is under no obligation to allow for a modification from zoning standards.
2. **Licensed commercial uses.** Only uses that have approval, or shall obtain approval prior to the requested time period, from any other agency having authority to regulate said use may be granted temporary use approval. Such outside agency approval shall be maintained as valid during the approved temporary use time period. Violation and/or expiration of any outside approval shall constitute a violation of any City approval and is subject to immediate termination of the temporary use permit.
3. **Required permits.** All temporary uses shall obtain any permits required by other municipal departments, such as the clerk's office, the fire department, the building safety department, or the police department. The Community Development Director may incorporate any local department in the application, review and approval process as they deem necessary.
4. In classifying uses as not requiring capital improvement, the Community Development Director shall determine that they are either demountable structures related to the permitted use of the land, or structures which do not require foundations, heating systems or sanitary connections.

- G. Approved Permits and Conditions.** An approved temporary use permit shall be granted in writing and shall stipulate all conditions as to time, nature of activities permitted and arrangements for removing the use and associated structures at the termination of such temporary permit.

## Section 6.29 Vehicle Fueling Station

- A. Minimum lot area and lot size.** A vehicle fueling station shall be located on a lot having a frontage along the principal street of not less than one-hundred-fifty (150) feet and having a minimum area of not less than fifteen thousand (15,000) square feet.
- B. Driveways.** All driveways providing ingress to or egress from a vehicle fueling station shall be not more than thirty (30) feet wide at the property line. No more than one (1) curb opening shall be permitted for each fifty (50) feet of frontage or major fraction thereof along any street. No driveway or curb opening shall be located nearer than twenty (20) feet to any corner or exterior lot line, as measured along the property line. No driveway shall be located nearer than thirty (30) feet, as measured along the property line, to any other driveway giving access to or from the same vehicle fueling station.
- C. Fuel dispenser location.** Fuel dispenser island canopies and liquid fuel dispenser stations shall not be located within twenty (20) feet of any property line. Vehicles being fueled and withing for access to fuel dispensers shall not cause any interference to a public right-of-way or conflict with safe movement along sidewalks, to building entrances or to designated parking spaces. This standard shall also pertain to alternative fueling dispensers, such as electric charging or hydrogen fueling stations.
- D. Site circulation.** The site design of any vehicle fueling station shall provide for the safe and efficient ingress and egress to the site for fuel delivery vehicles and an area for such fuel delivery vehicles to park while unloading which does not interfere with or impede ingress or egress to or from any public street, designated parking spaces, or any fuel dispensing locations.
- E. Residential screening.** A six (6) foot high decorative masonry wall with a five (5) foot wide landscape buffer on exterior side of the wall in compliance with the applicable standards of [Section 5.05](#) shall be provided along any property line shared with an adjacent residentially zoned or used lot.
- F. Right-of-way screening.** A five (5) foot wide landscape buffer or a three (3) foot high masonry screening buffer in compliance with the applicable standards of [Section 5.05](#) shall be provided along any adjacent public right-of-way line.
- G. Curb.** A raised curb six (6) inches in height shall be erected along all street lot lines, except for driveway openings.
- H. Traffic impact study.** A traffic impact study, in accordance with [Section 4.12](#), shall be required by the Planning Commission to evaluate the impacts of the traffic generated by the use.
- I. Further regulations.** Automobile service stations and public garages are subject to the provisions of Chapter 12, Article III of the Code of Ordinances.

## Section 6.30 Vehicle Sales Establishments

Vehicle sales operations with repair facilities or outdoor sales space shall be subject to the requirements that follow. These requirements shall apply to any operation involving the sale, lease or rental of new or used vehicles, house trailers, recreational vehicles, trucks, and other vehicles.

- A. Grading, surfacing, and drainage.** Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall be hard-surfaced with concrete or asphalt, and shall be graded and drained so as to effectively dispose of or retain surface waters. Grading, surfacing, and drainage plans shall be subject to review and approval by the Director of Public Works and/or City Engineer.
- B. Driveway location.** The nearest edge of any driveway serving an outdoor vehicle sales area shall be located at least sixty (60) feet from any street or road intersection (as measured from the right-of-way line).
- C. Servicing of vehicles.** All servicing of vehicles shall be subject to applicable provisions of [Section 6.32](#), alongside the following requirements:
1. Service activities shall be clearly incidental to the vehicle sales operation.
  2. Vehicle service activities shall occur within a completely enclosed building.
  3. Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored within a completely enclosed building.
  4. Buildings containing the service operations shall be located a minimum of fifty (50) feet from any abutting residential property line.
  5. There shall be no external evidence of the service operations, in the form of dust, odors, or noise, beyond the interior of the service building.
  6. Buildings should be oriented so that open bays, particularly for self-serve automobile washes, do not face onto adjacent thoroughfares unless screened by an adjoining lot, building or obscuring wall per [Section 5.05](#).
- D. Audio devices prohibited.** Devices for the outdoor broadcasting of voice, telephone monitoring, music or any other amplified sound shall be prohibited outside of any building. Audio devices broadcasting sound from within a service bay shall be designed as to not extend beyond the property line.
- E. Setbacks.** Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall comply with the requirements for parking lots, as specified in [Section 5.04](#).
- F. Minimum lot area.** The minimum lot area required for such uses shall be two (2) acres.
- G. Traffic impact study.** A traffic impact study, in accordance with [Section 4.12](#), shall be required by the Planning Commission to evaluate the impacts of the traffic generated by the use.

## Section 6.31 Vehicle Service Facility, Major

- A. Site access.** There shall be only one ingress/egress driveway per street frontage, with no drive-way closer than fifty (50) feet to any street intersection.
- B. Interior service Facilities.** All service and repair operations shall be conducted entirely within a fully enclosed building.
- C. Prohibited vehicles.** No partially dismantled, wrecked or unregistered vehicles shall be stored on-site.

- D. Overnight vehicle storage.** Any vehicles that are actively undergoing repairs shall only be stored overnight on-site within a fully enclosed building or an outdoor storage yard. The outdoor storage yard shall be completely enclosed on all sides with an eight (8) foot high decorative masonry wall and/or the wall of a building located on the lot. Gates providing access to the outdoor storage yard shall be comprised of a ridged metal frame and an opaque metal screen. Chain link gates shall be prohibited.
- E. Residential screening.** A six (6) foot high decorative masonry wall with a five (5) foot wide landscape buffer on exterior side of the wall in compliance with the standards of [Section 5.05](#) shall be provided along any property line shared with an adjacent residentially zoned or used lot.
- F. Right-of-way screening.** A five (5) foot wide landscape buffer or a three (3) foot high masonry screening buffer in compliance with the applicable standards of Sec. 5.05 shall be provided along any adjacent public right-of-way line.
- G. Traffic impact study.** A traffic impact study, in accordance with [Section 4.12](#), shall be required by the Planning Commission to evaluate the impacts of the traffic generated by the use.

### Section 6.32 Vehicle Service Facility, Minor

- A. Site access.** There shall be only one ingress/egress drive-way per street frontage, with no drive-way closer than 50 feet to any street intersection.
- B. Overnight vehicle storage.** The overnight parking or storage of vehicles shall be prohibited.
- C. Residential screening.** A six (6) foot high decorative masonry wall with a five (5) foot wide landscape buffer on exterior side of the wall in compliance with the standards of [Section 5.05](#) shall be provided along any property line shared with an adjacent residentially zoned or used lot.
- D. Right-of-way screening.** A five (5) foot wide landscape buffer or a three (3) foot high masonry screening buffer in compliance with the applicable standards of Sec. 5.05 shall be provided along any adjacent public right-of-way line.
- E. Traffic impact study.** A traffic impact study, in accordance with [Section 4.12](#), shall be required by the Planning Commission to evaluate the impacts of the traffic generated by the use.

### Section 6.33 Vehicle Wash Facility (i.e. car washes)

- A. Minimum lot area.** The minimum lot area required for vehicle wash facilities shall be ten thousand (10,000) square feet.
- B. Driveways.** Driveways shall provide direct access from a major thoroughfare or arterial road. The nearest edge of any entrance or exit drive shall be located no closer than twenty-five (25) feet from any street or road intersection, as measured from the nearest intersection right-of-way line. There shall be no more than two (2) driveways per street frontage, with no driveway closer than fifty (50) feet to any street intersection. No driveway shall be closer than fifty (50) feet to any other driveway providing access to the property.
- C. Access and maneuvering.** Sufficient space shall be provided on the lot so that vehicles do not enter or exit the wash building directly from an adjacent street or alley. All maneuvering areas, stacking lanes, and exit aprons shall be located within the car wash property. Streets and alleys shall not be used for maneuvering or parking by vehicles to be serviced by the vehicle wash facility.

- D. Wash and vacuum activities.** All washing activities shall be carried out within a fully enclosed building. Vacuum activities shall be permitted in the rear yard only, provided such activities are located at least twenty-five (25) feet from adjacent residentially zoned or used property. Entrances and exits shall not face abutting residentially zoned or used property.
- E. Building orientation – manual wash facility.** The entry and exit points for a manual vehicle wash bay shall be located to face interior lot lines and shall not be located to face any adjacent right-of-way property line. Manual vehicle wash bays shall not be permitted to provide direct vehicle access onto any adjacent street or alley in accordance with Section 6.33.C.
- F. Stacking lane – manual wash facility.** A minimum of two (2) stacking spaces, measuring ten (10) feet wide by twenty (20) feet long, shall be required per vehicle wash bay for a manual wash facility.
- G. Stacking lane – automatic wash facility.** A minimum of ten (10) stacking spaces, measuring ten (10) feet wide by twenty (20) feet long, shall be required per vehicle wash lane for an automatic wash facility. Payment stations and stacking lanes shall not be located between the building and the front lot line of the principal street. Stacking lanes shall not be located to interfere with vehicles accessing and exiting any designated parking space. Stacking lanes shall be located entirely on private property and shall not utilize any portion of or cause any interference to a public right-of-way or conflict with safe movement along any sidewalk.
- H. Access lane – automatic wash facility.** A ten (10) foot wide access lane, without equipment to automatically guide a vehicle through the automobile wash facility, shall be provided adjacent and running parallel to the full length of the vehicle wash lane from the payment lane to the automatic wash building access point. The access lane may also function as an interior access drive for vehicles accessing parking spaces and circulating through the lot.
- I. Residential screening.** A six (6) foot high decorative masonry wall with a five (5) foot wide landscape buffer on exterior side of the wall in compliance with the applicable standards of 5.05 shall be provided along any property line shared with an adjacent residentially zoned or used lot.
- J. Right-of-way screening.** A five (5) foot wide landscape buffer or a three (3) foot high masonry screening buffer in compliance with the applicable standards of *Section 5.05* shall be provided along any adjacent public right-of-way line.
- K. Exit lane drainage.** Exit lanes shall be sloped to drain water back to drainage gates in the wash building.
- L. Traffic impact study.** A traffic impact study, in accordance with *Section 4.12*, shall be required by the Planning Commission to evaluate the impacts of the traffic generated by the use.

## Section 6.34 Veterinary Clinic/Office

- A. Types of animals receiving care.** Veterinary clinics or offices shall only provide medical care to domestic animals and house pets. Veterinary offices and clinics that primarily service the healthcare needs of large livestock animals shall not be permitted.
- B. Enclosure.** All activities shall be conducted within a completely enclosed building, except for occasional walking and outdoor exercise when accompanied and controlled by an employee. No animals shall be permitted outside of the building between the hours of 9:00 p.m. and 8:00 a.m.
- C. Setbacks.** All buildings shall be set back at least fifty (50) feet from abutting land that is zoned for residential use.
- D. Treatment facilities.** No veterinary clinic shall contain facilities for the boarding of animals, except for the purpose of medical treatment or recovery from surgery or medical treatment (unless such facility is also permitted as a kennel and complies with [Section 6.14](#)).
- E. Crematoria.** Crematoria used to cremate the remains of animals shall not be permitted.



## Article 7.

# Nonconformities

### Section 7.01 Intent

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

### Section 7.02 General Requirements

- A. Unlawful nonconformities.** No nonconformity shall be permitted to continue in existence if it was unlawful at the time it was established.
- B. Variances.** Any use or dimension for which a variance has been granted as provided in this title shall not be deemed a nonconformity.
- C. Change of tenancy or ownership.** There may be a change in tenancy, ownership, or management of an existing nonconforming use, provided there is no change in the nature or character of such nonconforming use except in compliance with this ordinance.
- D. Buildings under construction.** To avoid undue hardship, nothing in this section shall be deemed to require a change in plans, construction, or designated use of any building on which a building permit was lawfully obtained, actual construction was lawfully begun, and which said building permit is open and valid prior to the effective date of adoption or amendment of this title.

- E. Recording of nonconforming uses and structures.** The Community Development Director shall be responsible for maintaining records of nonconforming uses and structures as accurate as is feasible, and for determining legal nonconforming uses and structures in existence on the effective date of adoption or amendment of this title. Failure on the part of a property owner to provide the Community Development Director with necessary information to determine legal nonconforming status may result in denial of required or requested permits.
- F. Elimination of nonconformities by acquisition.** In accordance with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, the City Council 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 in compliance with the following procedures.
- 1. Planning commission recommendation.** The City Planning Commission may from time to time recommend to the City Council the acquisition by purchase, condemnation, or otherwise private property or an interest in private property which does not conform in use or structure to the regulations and restrictions of the various districts defined in this Chapter and the removal of such nonconforming use or structure.  
  
The City Planning Commission shall submit its reasons and estimates of cost and expenses of such acquisition and removal of the nonconformity and probable resale price of the property to be acquired after removal of the nonconformity as obtained from the appropriate City department, board or commission. The City Planning Commission shall recommend that portion of the difference between the estimated cost of acquisition and removal of the nonconformity and the probable resale price which in their opinion should be assessed against a benefited district.
  - 2. City council public hearing.** Whenever the City Council has under advisement considers the acquisition by purchase, condemnation, or otherwise as provided by law of any nonconforming building, structure or use, a public hearing thereon shall be held before the City Council. Not less than 15 days before the hearing, a notice of time, place and purpose of such public hearing shall be published in a paper circulating in the City and the City Clerk shall send by mail addressed to the respective owners of any such properties and properties within 300 feet at the addresses given in the last assessment roll, a written notice of time, place and purpose of such hearing. If the cost and expense or any portion thereof is to be assessed to a special district, the City Assessor shall be directed to furnish the City Council with a tentative special assessment district and the tentative plan of assessment, the names of the respective owners of the property in such district and addresses of such owners in the last assessment roll. The City Clerk shall also send the notice to the respective owners in the tentative assessment district.
  - 3. City council action and property acquisition.** Whenever the City Council, after a public hearing as required shall declare by resolution that proceedings be instituted for the acquisition of any property on which is located a nonconforming building, structure or use in accordance with the laws of the State, the Charter, this Chapter and other applicable ordinances of the City, the City Clerk shall send by registered mail a certified copy of such resolution to the respective owners of the properties and to the owners of the properties in any special assessment district, at the address given in the last assessment roll.
  - 4. Removal of nonconformity.** Upon the passing of title to the private property acquired as provided in the preceding section to the City, the City Council shall cause the discontinuance or removal of the nonconforming use or the removal, demolition or remodeling of the nonconforming structure. The City

Council shall thereafter order such property sold or otherwise disposed of, but only for a conforming use.

5. **Assessment roll.** The City Council shall confirm the cost and the expense of such a project and report any assessable cost to the City Assessor who shall then prepare an assessment roll in the manner provided for in the Charter, Code and other applicable ordinance of the City. Such an assessment roll may, in the discretion of the City Council, be in one (1) or more but not to exceed five (5) annual installments.

## Section 7.03 Nonconforming Lots

The following requirements shall apply to any legally created lot of record that existed prior to the effective date of adoption or amendment of this title.

- A. **Use of legal nonconforming lot.** A lot which was legal and conforming at the time of its creation but which was made nonconforming by the passage of this Chapter or any amendment thereto, may be used and developed in accordance with the provisions of this Chapter, except as otherwise restricted by *Sec. 7.05*. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that the lot can be used in compliance with remaining dimensional standards and other requirements not involving lot area or lot width, or both, for the district in which the lot is located.
- B. **Variance from applicable standards.** If the use of a nonconforming lot requires a variance from any requirement of this chapter, other than the minimum lot area or width requirement, then the use shall be permitted only if a variance is granted by the Zoning Board of Appeals.
- C. **Contiguous lots under single ownership.** If two (2) or more contiguous lots or a combination of lots or portions of lots with a continuous frontage in single ownership are of record at the effective date of adoption or amendment of this title, or at any time thereafter; and if all or part of the lots do not meet the requirements for lot area or width as established by this chapter, the lands involved shall be considered to be one single zoning parcel for the purpose of this chapter, and shall comply with the following:
  1. No portion of such zoning parcel shall be used or occupied which does not meet lot area or width requirements as established by this chapter.
  2. No division of the zoning lot shall be made which leaves remaining on any lot with area or width below the requirements stated in this chapter.
  3. No existing structure located on such a zoning parcel shall be permitted to be structurally altered nor shall the use of a zoning parcel be permitted to be changed to another use without first combining the zoning parcel into one or more recorded lots that comply with the requirements of this chapter.
- D. **Contiguous lots with principal structures under single ownership.** As of the effective date of adoption or amendment of this title, when two or more abutting or contiguous lots, one or more of which are nonconforming in width or area, are of record and in single ownership and each lot is occupied by a separate and independent principal structure, then the abutting lots with principal structures shall be deemed to be their own independent nonconforming lots of record under this chapter and may function as if under separate ownership.

- E. Combination of Nonconforming Lots.** Except as otherwise provided in Sec. 7.03.F, the City may permit the combination of nonconforming lots of record into building sites less than the size requirements established by this chapter, provided that the combination of lots reduces the degree of nonconformity and results in a lot which is capable of accommodating a structure that is in conformance with the building area, setback requirements of this chapter and further provided the property owner does not own any other adjacent property that could be combined to further reduce the scope of the nonconformity or comply with the standards of this chapter.
- F. Combination of lots for single family dwelling use.** In any district which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Chapter, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Chapter, provided such lot is located in a block on which fifty one (51) percent or more of the lots on both sides of the street are occupied by single family dwellings.
1. Where fifty-one (51) percent or more of the existing homes are built upon a larger lot or combination of lots, a building permit will not be granted for a lot of less area or width than the size of the lots of the majority of the dwellings existing at the time of passage of this Chapter.
  2. In those areas where less than fifty-one (51) percent of the lots are built upon in a one (1) block area, the provisions regarding the use of combined lots shall apply.
  3. Permission to use a single nonconforming lot as provided herein shall apply even though such lots fail to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which lot is located. Provided, however, lots of forty-five (45) feet or less width of a plat officially approved and recorded prior to the adoption of this Chapter shall have two side yards each having a width of not less than four (4) feet and an aggregate width of not less than twelve (12) feet.

## Section 7.04 Nonconforming Structures

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

- A. Increase in nonconformity prohibited.** A nonconforming structure shall not be enlarged or altered in a way which increases its nonconformity.
- B. Permitted Changes to Nonconforming Structures.** Any nonconforming structure may be altered if the alteration serves to decrease the nonconforming nature of the structure. Any nonconforming structure may be expanded or altered in a manner which does not increase its nonconformity.
- C. Change of location.** Should a nonconforming structure be moved to another parcel or to another location on the same parcel for any reason whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- D. Damage by fire or other catastrophe.** The reconstruction, repair or restoration and the continued use of any nonconforming structure damaged by fire, collapse, explosion, natural disaster, or other such catastrophe, subsequent to the effective date of this title shall comply with the following:

1. If the sum total of the expense including labor, materials and other charges for the reconstruction of damage to a nonconforming structure exceeds 30 percent of the State Equalized Value (SEV) of the entire structure at the time such damage occurred, the structure shall only be reconstructed in compliance with all requirements of the zoning ordinance.
2. If the sum total of the expense including labor, materials and other charges for the reconstruction of damage to a nonconforming structure does not exceed 30 percent of the State Equalized Value (SEV) of the entire structure at the time such damage occurred, the structure may be reconstructed in a manner consistent with the pre-existing dimensional nonconformities.
3. Any restoration of damaged structures shall comply with the following:
  - a) Such restoration shall take place within six (6) months of the time of such damage and be completed within one (1) year from time of such damage.
  - b) Until such time as the debris from the damage is fully removed, the premises shall be adequately fenced or screened from access.
  - c) When a pending insurance claim requires an extension of time, the Community Development Director may grant a time extension provided that the property owner submits a certification from the insurance company attesting to the delay.

**E. Reconstruction of unsafe structures.** If a nonconforming structure becomes physically unsafe and/or unlawful due to lack of maintenance and repairs and is declared as such by the Building Official, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.

**F. Alteration and reconstruction of single-unit dwellings.** Nothing contained in this chapter shall prohibit a nonconforming single-unit dwelling homeowner from altering, improving or reconstructing their homestead. Such alterations, improvements or reconstruction shall be subject to the following:

1. Any such project shall not increase an existing nonconformity. Additions or modifications may increase in height or extend into a required yard setback provided such a modification does not increase the distance by which an existing nonconformity already extends.
2. Any homestead destroyed by any means, except voluntary destruction, to an extent of more than 200 percent of its state equalized value at the time of destruction, may be reconstructed by a homeowner consistent with the pre-existing dimensional nonconformities.
3. Under this section, a homeowner may only have one homestead in the city and such homestead must be their sole residence in the city and they must be residing in or have legally resided therein at time application to enlarge, alter or reconstruct is applied for.

## Section 7.05 Nonconforming Uses

**A. Continuance of nonconforming use.** If a lawful use of land, a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this title, that would not be allowed in the district which the use is located under the terms of this chapter, such use may be continued so long as it remains otherwise lawful and in compliance with this chapter and all applicable titles.

- B. Expansion of use.** Any alterations to a building, structure, or component thereof, shall be subject to the following regulations:
1. No nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied on the effective date or amendment of this ordinance.
  2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.
  3. No existing structure devoted in whole or in part to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- C. Discontinuation of Use.** When a nonconforming use of land, a structure, or structure and land in combination, is discontinued for 12 months or more, the land, structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. In applying this section to seasonal uses, the time during the off-season is not counted, provided that the off-season time for such a use is reported to the Community Development Director.
- D. Change of Use.** The nonconforming use of land, a structure, or structure and land in combination may only be changed to another use permitted in the district in which such nonconforming use is located. Where the nonconforming use of land, a structure, or structure and land in combination is changed to a permitted use it may not thereafter be changed back to the previous nonconforming use.



## Article 8.

# Administration and Enforcement

### Section 8.01 Administration and Permits

**A. Overview of administrative responsibilities.** The City Manager, or their duly authorized representative as specified in this article, is hereby charged with the duty of enforcing the provisions of the Zoning Ordinance. Furthermore, administrative responsibilities are vested in the following City entities and further detailed in this Article.

1. City Council
2. Planning Commission
3. Zoning Board of Appeals
4. Community Development Director, and any person designated by the Community Development Director
5. Building Official, and any person designated by the Building Official.
6. City Planner. The City Planner may be a member of city staff or a firm or organization retained on a consulting basis, or the responsibilities may be shared by staff and a consultant. The City Planner shall

**B. Responsibilities of administrative entities and officials**

1. **City Council.** The City Council shall have the following responsibilities and authority in addition to any other responsibilities outlined in this Chapter.4

- a) **Adoption of Zoning Ordinance and Amendments.** In accordance with the intent and purposes of this Ordinance, and pursuant to the authority conferred by the Michigan Zoning Enabling Act, PA 110 of 2006, MCL 125.3101 et seq., as amended, the City Council shall have the authority to adopt this Ordinance, as well as amendments previously considered by the City Council at a hearing or as decreed by a court of competent jurisdiction.
  - b) **Setting of Fees.** The City Council shall have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance. In the absence of specific action taken by the City Council to set a fee for a specific permit or application, the appropriate City administrative official shall assess the fee based on the estimated costs of processing and reviewing the permit or application.
  - c) **Approval of Planning Commission Members.** In accordance with the Michigan Planning Enabling Act, PA 33 of 2008, MCL 125.3801 et seq., as amended, members of the Planning Commission shall be appointed by the Mayor with the approval of the City Council.
  - d) **Final Approval.** Where specified in this ordinance, the City Council shall serve as the final approval authority for special land uses, planned unit developments and other development approvals as cited in this Ordinance.
2. **Planning Commission.** The Planning Commission is designated as the commission specified in Michigan Planning Enabling Act, PA 33 of 2008, MCL 125.3801 et seq., as amended, and shall perform the duties of such commission as provided in the statute and the City of Harper Woods Code of Ordinances. The Planning Commission is hereby designated as the succeeding body of the Zoning Commission specified in the Michigan Zoning Enabling Act, PA 110 of 2006, MCL 125.3101 et seq., as amended, and shall perform the duties of said Commission as provided in the statute and the City of Harper Woods Code of Ordinances.
  3. **Zoning Board of Appeals.** The Zoning Board of Appeals (hereinafter referred to as “ZBA”) is created pursuant to Article VI of the Michigan Zoning Enabling Act, PA 110 of 2006, MCL 125.3101, as amended. The ZBA’s membership, organization and duties are hereby established as cited in this Ordinance.
  4. **Community Development Director.** The Community Development Director shall have the following duties and responsibilities as outlined below and as cited in this ordinance. The Community Development Director may designate another individual to be the person responsible for enforcing and enacting certain tasks and responsibilities. When the Community Development Director is cited in this ordinance for a certain task or responsibility the person so designated by the Community Development Director with said task or responsibility shall be deemed to be equivalent to the Community Development Director.
    - a) The Community Development Director may grant zoning compliance permits for each new structure upon a determination that the application is in compliance with City zoning ordinance requirements, upon consultation with the City Planner as necessary.
    - b) The Community Development Director may make inspections of buildings or premises necessary to carry out their duties in the enforcement of this chapter.
    - c) The Community Development Director may record known nonconformities as the on-going review of buildings, sites and uses results in awareness of a nonconformity.

- d) Under no circumstances is the Community Development Director permitted to make changes to this chapter in carrying out their duties.
  - e) The Community Development Director shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant.
  - f) It shall be unlawful for the Community Development Director to approve any plans or approve the issuance of a zoning compliance permit for any excavation or construction until, in consultation with the City Planner, they have inspected such plans in detail and found them to be in conformity with this ordinance.
5. **Building Official.** The Building Official shall have the following duties and responsibilities as outlined below and as cited in this ordinance. The Building Official may designate another individual to be the person responsible for enforcing and enacting certain tasks and responsibilities. When the Building Official is cited in this ordinance for a certain task or responsibility the person so designated by the Building Official with said task or responsibility shall be deemed to be equivalent to the Building Official.
- a) The Building Official may grant certificates of occupancy permits for each new use upon a determination that the application is in compliance with City zoning ordinance requirements.
  - b) The Building Official may make inspections of building or premises necessary to carry out their duties in the enforcement of this chapter.
  - c) Under no circumstances is the building department or building official permitted to make changes to this chapter in carrying out their duties.
  - d) The building official shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant.
  - e) It shall be unlawful for the Building Official to approve any plans or issue a building permit for any excavation or construction until they have inspected such plans in detail and found them to be in conformity with this ordinance.
6. **City Planner.** The City Planner may act at the direction or request of the City Council, the Planning Commission, the City Manager, the Community Development Director, an authorized department head, or other authorized city body.

### C. Permits and Licenses

- 1. Zoning compliance permit and building permit required.
  - a) It shall be unlawful for any person to commence excavation for, or construction of any building or structure, moving of an existing building, or structural changes or repairs in any existing building or structure without first obtaining a zoning compliance permit and building permit from the city. No permit shall be issued for the construction, alteration or remodeling of any building or structure until an application has been submitted in accordance with the provisions of this title showing that the construction proposed is in compliance with the provisions of the City Zoning Ordinance and with Chapter 5, Buildings and Building Regulations, Article 2, Building Code, of the Harper Woods Code of Ordinances.

- b) No plumbing, electrical, drainage or other permit shall be issued until the Building Official has determined that the plans and designated use indicate that the structure and premises, if constructed as planned and proposed, will conform to the provisions of this ordinance.
  - c) “Alteration” or “repair” of an existing building or structure shall include any changes in structural members, stairways, basic construction type, kind or class of occupancy, light or ventilation, means of egress and ingress, or any other changes affecting or regulated by Chapter 5, Buildings and Building Regulations, Article 2, Building Code, of the Harper Woods Code of Ordinances, the housing law of the State of Michigan, or the City’s Zoning Ordinance, except for minor repairs or changes not involving any of the aforesaid provisions.
  - d) A zoning compliance permit shall be obtained for any new use of land, whether presently vacant or a change in land use is proposed.
  - e) A zoning compliance permit shall also be obtained for any change in use of an existing building or structure to a different class or type of use.
2. **Zoning compliance permit application requirements.** The Community Development Director shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Chapter. It shall be unlawful for the Building Inspector to approve any plans or issue a zoning compliance permit or a building permit for any excavation or construction until he has inspected such plans in detail and found them in conformity with this Chapter. To this end, the Building Inspector shall require that every application for a zoning compliance permit for excavation, construction, moving, alteration or change in type of use or the type of occupancy be accompanied by written statements and plans or plats drawn to scale, in duplicate, showing the following in sufficient detail to enable the Building Inspector to ascertain whether the proposed work or use is in conformance with this Chapter:
- a) The actual shape, location and dimensions of the lot.
  - b) The shape, size and location of all buildings or other structures to be erected, altered or moved and of any buildings or other structures already on the lot.
  - c) The existing and intended use of the lot and all such structures upon it including in the residential area, the number of dwelling units the building is intended to accommodate.
  - d) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Chapter are being observed.

If the proposed excavation, construction, moving, alteration or use of land as set forth in the application are in conformance with the provisions of this Chapter, the Building Inspector shall issue a zoning compliance permit. If any application for such permit is not approved, the Building Inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any provisions in this Chapter.

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

3. **Licenses.** With the exception of owner occupied dwelling units, a license is required for any person who shall be conducting any business, rents any land or structure or engages in any trade or occupation from any premises within the City. See Chapter 12, Licenses, Permits and Business

Regulations. At the time of license application, the Community Development Director shall determine whether the proposed use complies with the use regulations in the City's Zoning Ordinance.

- D. Certificates of compliance.** It shall be unlawful to use or permit the use of any land, building or structure for which a building permit is required, and to use or permit to be used any building or structure hereafter altered, extended, erected, repaired or moved, until the Building Official shall have issued a certificate of compliance stating that the provisions of this title have been complied with.
1. **Certificate validity.** The certificate of compliance as required for new construction of or renovations to existing buildings and structures in Chapter 5, Buildings and Building Regulations, Article 2, Building Code shall also constitute certificates of compliance as required by this title.
  2. **Certificates for existing buildings.** Certificates of compliance shall be issued for change in use of existing buildings, structures or parts thereof, or existing uses of land if after inspection it is found that such buildings, structures or parts thereof, or such use of land are in conformity with the provisions of this title.
  3. **Temporary certificates.** Temporary certificates of compliance may be issued for a part of a building or structure prior to the occupation of the entire building or structure; provided, that such temporary certificate of compliance shall not remain in force more than 30 days, nor more than 5 days after the building or structure is fully completed and ready for occupancy; and provided further, that such portion of the building or structure is in conformity with the provisions of the City Zoning Ordinance.
  4. **Records Of certificates.** A record of all certificates of compliance shall be kept in the office of the Building Official, and copies of such certificates of compliance shall be furnished upon request to a person or persons having a proprietary or tenancy interest in the property involved.
  5. **Application for certificate.** Certificates of compliance shall be applied for in writing to the Building Official on forms provided by the Building Official. They shall be issued within 10 days after the receipt of such application if it is found that the building or structure or part thereof or the use of land is in accordance with the provisions of this Chapter and the Building Code. If such certificate is refused for cause, the applicant therefore shall be notified of such refusal and the cause within the 10 day period. A record of all such refusals shall be kept on file in the Building Official's Office.
- E. Fees.** Fees for inspections and the issuance of permits or certificates or copies thereof required or issued under the provisions of this Chapter shall be collected by the Building Official in advance of the issuance of such permits or certificates.
1. The amount of such fees shall be established by the City Council, and shall cover the cost of inspection and supervision resulting from the enforcement of this Chapter. The fees shall be deposited in the general fund of the City.
  2. No fees shall be charged for an original certificate of occupancy applied for coincident with the application for a building permit. For all other certificates or for copies of an original certificates, there shall be a charge of one dollar each.

## Section 8.02 Plan Review for Uses and Structures

The procedures, standards and required information in this Section are intended to provide a consistent and uniform method of review of proposed development plans, to ensure full compliance with the regulations and standards contained in this Ordinance and other applicable ordinances and laws, to achieve efficient use of

land, to protect natural resources, to promote efficient pedestrian and vehicular movements and to prevent adverse impact on adjoining or nearby properties. It is the intent of the plan review requirements to encourage cooperation and consultation between the City and the applicant to facilitate development in accordance with the City's land use objectives.

**A. Type of plan review required.** No building shall be erected, moved, relocated, or structurally altered, no change or addition of use, no expansion or reduction of off-street parking, and no filling, excavation or grading shall be undertaken until a required plan has been submitted for review and approval, as specified in this section. A structural alteration shall be defined as one that changes the location of the exterior walls and/or the area of the building. Filling, grading or excavation which causes more than five (5) cubic yards of earth material to be disturbed shall require review and approval as specified in this section. Plan approval shall be required prior to construction and/or occupancy of a site or structure pursuant to the submittal requirements, review procedures and approval criteria of this article. The following outlines the type of plan review required based on the project scope:

1. **Plot plan review.** All plot plans shall include the location, area, and dimensions of the lot, and the use, setbacks from property lines, and dimensions for all existing and proposed structures, accessory structures and site improvements. The Community Development Director shall approve a plot plan upon the determination that the plan is in compliance with all applicable ordinances. A plot plan shall be required for the following projects:
  - a) **Single-Unit Dwelling and Two-Dwelling Residential.** The construction, renovation, or addition of a one-family or two-family residential structure, including any associated accessory structures, shall require the submittal of a plot plan. The plot plan for the construction of a new one- or two-unit principal structure shall also be drawn to scale and shall include the seal and signature of a licensed professional architect or engineer.
  - b) **Re-Use/Re-Occupancy of Existing Buildings.** The re-use or re-occupancy of an existing multi-unit residential or non-residential structure may submit a plot plan provided the project complies with the following:
    - 1) The proposed use shall not request or require modifications to the existing site or building as determined by the Community Development Director.
    - 2) The proposed use shall not require special land use approval.
    - 3) No variances to the requirements of this ordinance shall be required.
    - 4) The Community Development Director determines that a sketch plan or site plan review is not required.

The re-use or re-occupancy of an existing multi-unit residential or non-residential structure not meeting the requirements above shall require a sketch plan or site plan review as determined by the Community Development Director.

2. **Administrative sketch plan review.** The proposed modifications to an existing and legally conforming use and structure which is permitted in the zoning district in which it is located and that complies with the following standards for minor site modification may submit a sketch plan for administrative review. The Community Development Director, in consultation with the City Planner, shall determine whether an administrative sketch plan review or Planning Commission Site Plan review is required based on the improvements to the site and/or structures.

- a) **Minor Modifications to Existing Uses and Structures.** The Community Development Director shall determine if proposed modifications to an existing use, site or structure are minor and in accordance with the guidelines in this section. To make a determination, the Community Development Director may solicit comments and recommendations from the City Attorney, City Planner, City Engineer, and City Department Heads, as deemed necessary. Modifications that require a variance, special land use approval, planned development, or the construction of a new principal building or structure are not considered minor modifications and shall require Planning Commission site plan review. The Planning Commission shall have the authority to allow a site plan to be reviewed administratively after granting special use approval if the Commission deems the improvements minor.

Minor modifications include the following changes in use or site construction activities that do not detrimentally affect the character or intensity of the area.

- 1) An addition to an existing building that does not increase or decrease the floor area by more than 15% or 1,000 square feet.
  - 2) Re-occupancy of a building by a permitted use requiring modifications to site improvements.
  - 3) Changes to building height.
  - 4) Additions or alterations to the landscape plan or landscape materials.
  - 5) Relocation or resizing of utility supply lines or service connections.
  - 6) Relocation or screening of the trash receptacle.
  - 7) Alterations to the internal parking layout of an off-street lot.
  - 8) Other building or site improvements deemed similar by the Community Development Director.
3. **Planning Commission Site Plan Review.** The development of any new use, the construction of any new structures other than a one-family or two-family residential structure, or the redevelopment of any existing site that does not meet the standard for plot plan review or administrative sketch plan review of Sec.8.02(A) shall require site plan review and approval by the Planning Commission prior to construction and/or occupancy pursuant to the submittal requirements, review procedures and approval criteria of this article.

#### **B. Sketch plan and site plan application procedure**

1. **Application Submittal.** An application for sketch plan/site plan review shall be filed with the building department on a form provided by the City along with the required application fee, any necessary escrow payment, and the required number of paper and/or digital plan copies as cited on the application. The completed application shall be signed by the property owner. Every plan submitted shall be in accordance with the requirements of this chapter. Sketch plans and site plans shall include all information as required in this section. Applications will not be processed unless they are complete and unless all fees are paid in accordance with the schedule of fees adopted by the city council.
2. **Technical Review.** Sketch plans/site plans may be forwarded to the planner, engineer, and city department heads for review to determine compliance with applicable City, County and State ordinances and standards. If deemed necessary by the Community Development Director or the City Planner, the plans shall also be submitted to applicable outside agencies for review and comment. For

site plans determined not to be in substantial compliance by any technical reviewer, the applicant may be required to complete revisions and re-submit the plans for further review prior to final action.

3. **Required sketch plan information.** A sketch plan for administrative approval shall contain the following information:
  - a) Name, address, telephone number(s), and email address(es) of the applicant(s) (and property owner, if different from applicant) and firm or individual preparing the plan.
  - b) The property location including address, lot number, tax identification number.
  - c) Sketch plan shall be drawn to an engineer's scale.
  - d) Size and dimensions of proposed structures, including gross and usable floor areas, number of stories, and overall height.
  - e) Dimensions of all property lines, showing the relationship of the site to abutting properties. If the site is part of a larger parcel, the plan should indicate the boundaries of total land holding.
  - f) Existing site features, including natural and historical features, structures, driveways, fences, walls, signs, landscaping and other improvements.
  - g) Location, dimensions, setback distances, and use(s) of all proposed improvements.
  - h) Location and description of all existing and proposed easements and rights-of-way for utilities, access, and drainage.
  - i) Location of existing public or private utilities including, but not limited to water, and sanitary and stormwater sewers.
  - j) Other information as requested by the reviewer to verify that the site and use are in accordance with the purpose and intent of this Ordinance and the City's Master Plan.
4. **Required site plan information.** Required site plan information is specified on the site plan checklist form which is available from the building department. A site plan for administrative or planning commission approval shall generally include the following categories of information in sufficient detail to determine ordinance compliance.
  - a) **Descriptive and Identification Data.** Information shall include, but is not limited to, applicant contact information, professional architect and/or engineer contact information, general location map, legal property description, area and dimensions of all lots and property lines.
  - b) **Site Data.** Information shall include, but is not limited to, existing and proposed lot lines, access drives, parking areas, landscape areas, dimensioned setbacks, location of sidewalks, driveway entrances, existing and proposed lighting, trash receptacle locations and method of screening, easements, and the location of any outdoor storage areas.
  - c) **Building and Structure Data.** Information shall include, but is not limited to, the location, height and outside dimensions of all existing and proposed buildings or structures, building floor plans, individual unit and total floor areas, location, size, and height of all existing and proposed signs, fences, walls, and other structures, and architectural elevations.
  - d) **Utilities, Drainage and Other Infrastructure Data.** Information shall include, but is not limited to, location and size of existing and proposed electric, gas, and communications supply lines,

schematic layout of existing and proposed sanitary sewer connections, water mains, water leads and hydrants that service the site, location, size and capacity of exterior drains, catch basins, retention/detention areas, culverts and other facilities which collect, store or transport storm water, soil erosion and sedimentation control measures, site grading information including existing elevations, drainage patterns, proposed contours and finished grades.

- e) **Other Data That May Be Required.** Other data may be required if deemed necessary by the administrative reviewer, technical reviewer or planning commission to determine compliance with provisions in these regulations. Such information may include, but is not limited to, traffic studies, market analysis, environmental assessment and evaluation of the demand on public utilities and services.

#### 5. **Administrative Sketch Plan Review Process**

- a) The City Planner or the City's Planning Consultant shall review the sketch plan, together with any requested reports and recommendations from staff, consultants and other reviewing agencies and any public comments. The Community Development Director shall then approve or deny the plans based on a determination by the City Planner or the City's Planning Consultant that the plan is or is not in compliance with all applicable ordinances and the approval standards of this section.
- b) Any administrative denial of a sketch plan may be appealed to the Planning Commission. All submitted application material and technical reviews shall be subject to the review process of this section.

#### 6. **Planning Commission site plan review process**

- a) A site plan shall not be placed on the planning commission agenda until such time as the Community Development Director, in consultation with the City Planner, determines the site plan is in compliance with the requirements of this article and is ready for Planning Commission review and action.
- b) A site plan involving use(s) subject to special land use approval or Planned Development shall require a public hearing. After payment of fees, and submittal of a site plan determined to be in compliance with the requirements of this article, the Community Development Director may set the date of the public hearing for a meeting of the Planning Commission. The public hearing shall follow the procedure outlined in Sec. 17.09.050. The special land use review and site plan review may be conducted at the same meeting.
- c) The Planning Commission shall review the site plan, together with any reports and recommendations from staff, consultants and other reviewing agencies and any public comments. The Planning Commission shall then make a determination based on the requirements of this ordinance and the applicable standards. The Planning Commission is authorized to postpone, approve, approve subject to conditions, or deny the site plan as follows:
  - 1) **Postponement.** Upon determination by the Planning Commission that a site plan is not sufficiently complete for approval or denial or upon a request by the applicant, the Planning Commission may postpone consideration until a later meeting.
  - 2) **Approval.** Upon determination that a site plan is in compliance with the requirements of this ordinance and other applicable ordinances and laws, the site plan shall be approved. Such

approval shall be recorded on the site plan, filing one copy in the official site plan file and returning one copy to the applicant.

- 3) **Approval subject to conditions.** The Planning Commission may approve a site plan, subject to one or more conditions necessary to address minor modifications to the site plan, upon a determination that the site plan is in compliance with the requirements of this ordinance and other applicable ordinances and laws once the conditions sited in the motion have been complied with. Such conditions may include the need to obtain variances or approvals from other agencies. The applicant shall be required to submit a revised site plan and/or obtain the necessary approvals that comply with the conditions of approval. Once all conditions of approval are met, such approval shall be recorded on the site plan, filing one copy in the official site plan file and returning one copy to the applicant.
- 4) **Denial.** Upon determination that a site plan does not comply with the standards and regulations set forth in this ordinance or would require extensive revisions to comply with said standards and regulations, the site plan shall be denied. If a site plan is denied, a written record shall be provided to the applicant listing the reasons for such denial. The applicant may subsequently refile a corrected site plan under the same procedures followed for the initial submission.

#### 7. **Procedures after sketch plan and site plan approval**

- a) **Building permit.** Following final approval of a sketch plan/site plan, the applicant may apply to the city for a building permit. The issuance of a building permit shall be subject to the review of construction plans by the Building Department, and, if deemed necessary, by the Community Development Director and/or the City Engineer. It shall be the responsibility of the applicant to obtain all applicable city, county, or state permits prior to issuance of a building permit.
- b) **Approval expiration.** The approval of a sketch plan/site plan shall be effective for a period of 12 months from the date of such approval. If a building permit has not been obtained and construction has not commenced within the 12 month approval period, the sketch plan/site plan approval shall be null and void. In such a case, the applicant shall be required to obtain a new sketch plan/site plan approval as specified in this Article prior to beginning or resuming construction on the project.
- c) **Approval extension.** Sketch plans shall not be granted an extension. An extension of up to 12 months for an approved site plan may be granted by the original authority granting approval for good cause. An extension may be granted provided the approved site plan continues to adequately represent current conditions on and surrounding the site, and that the site plan conforms to the standards of the city regulations in affect at the time of the applicant's request for an extension.
- d) **Continued compliance after approval.** Following the approval of a sketch plan or site plan, the property owner shall be subject to the following regulations:
  - 1) It shall be the responsibility of the owner of a property for which sketch plan/site plan approval has been granted to maintain the property in accordance with the approved plans, including all site design elements and improvements, on a continuing basis until the property is razed, new zoning regulations supersede the regulations upon which sketch plan/site plan approval was based, or a new site plan is approved.

- 2) Any property owner who fails to maintain an approved sketch plan/site plan in full compliance with approvals granted by the City according to the provisions of these regulations, shall be deemed in violation of the use provisions of these regulations and shall be required to return the site conditions to be consistent with the approved plans.
  - e) **Revocation.** An approved site plan may be revoked by the Planning Commission if construction on the site is not completed or is not progressing in a manner consistent with the approved plans. In such a case, the site plan shall be placed on the agenda of a Planning Commission meeting for consideration. The Community Development Director shall give written notice to the applicant at least ten days prior to the meeting. The Community Development Director, other city staff, the applicant, and other interested persons shall be allowed to present information and testimony to the Planning Commission. If the Planning Commission finds that an inconsistency or violation of the approved site plan exists at the time of the hearing, then, by a majority vote of attending members, the Planning Commission may revoke the approval of the site plan and order the site returned to its original condition by a date certain. Failure to comply with such an order shall be deemed a violation of the use provisions of these regulations.
  - f) **Modifications to approved plan.** A previously approved site plan may be subsequently modified, subject to the review and approval requirements of this article based on the scope of the proposed modifications.
8. **Standards for sketch plan/site plan approval.** In the process of reviewing the site plan, the following items shall be considered:
- a) Whether or not the proposed site plan is in accordance with all provisions and requirements of this chapter.
  - b) The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site, and in relation to pedestrian traffic. Where one or more nonresidential driveways have been established prior to any redevelopment, one or more existing driveways may be permitted to remain subject to final site plan approval. The planning commission may reduce the number of driveways in existence to utilize access management practices. An approved permit, in compliance with the approved site plan, authorizing any curb cuts from the public agency having jurisdiction over any abutting public thoroughfare shall be furnished prior to the issuance of a building permit.
  - c) The traffic circulation patterns within the site and the location and placement of buildings, parking areas and loading areas as they relate to:
    - 1) Safety and convenience of both vehicular and pedestrian traffic on and adjacent to the site;
    - 2) Satisfactory and harmonious relationships between the development on the site and the existing and prospective development of contiguous land and in adjacent neighborhoods; and
    - 3) Necessary accessibility by emergency vehicles.
  - d) The minimizing of adverse effects on desirable environmental and physical characteristics of the site, as balanced against the reasonable development of the site.
  - e) Whether or not landscaping, fences, walls and berms are in conformity with necessary screening requirements.

- f) Whether or not the proposed site plan is in accordance with the spirit and purpose of this chapter and not inconsistent with, or contrary to, the objectives sought to be accomplished by this chapter and the principles of sound planning.
- g) The location of buildings, outside storage receptacles, parking areas, fences or obscuring walls, and utility areas will minimize adverse effects of the proposed use for the occupants of that property and the tenants, owners, and occupants of surrounding properties.
- h) There is a proper relationship between major thoroughfares and proposed service drives, driveways, and parking areas to encourage the safety and convenience of pedestrian and vehicular traffic. The site plan includes the minimum number of driveways required to provide reasonable access. Driveways are spaced as far apart from intersections and other driveways as practical to reduce accident and congestion potential. Sharing with adjacent uses is encouraged. The Planning Commission may require a traffic impact study.
- i) The site plan provides for proper development of roads, easements, and public utilities and protects the general health, safety, and welfare of the City and its residents.
- j) Building architecture, materials, roof line, colors, windows and similar elements shall be consistent with the majority of other buildings in the City, as determined by the Planning Commission (or City Council for Special Land Uses). Brick construction or brick trim, varying facade depths and peaked roofs, is encouraged. Stark white or bold colors and reflective glass are discouraged. The intent of this standard is to provide a harmonious, unified community to help create a sense of place and contribute to the image and quality of life in the City.

### Section 8.03 Special Land Use

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

#### A. Application requirements

1. **Application Submittal.** An application for special land use review shall be filed with the building department on a form provided by the City along with the required application fee, any necessary escrow payment, and the required number of paper and/or digital plan copies as cited on the application. The completed application shall be signed by the property owner. Applications will not be processed unless they are complete and unless all fees are paid in accordance with the schedule of fees adopted by the city council.
2. **Required Information.** An application for special land use shall be accompanied by a detailed description of the operations and characteristics of the proposed use sufficient for the planning commission to make an informed decision. A sketch plan or site plan, as applicable, that meets the necessary requirements of this Ordinance and other controlling regulations, shall also be submitted

with an application. The Community Development Director shall determine which type of plan is appropriate based on the characteristics of the proposed special land use.

3. **Site Plan Requirement.** All special land use applications shall be required to submit a Site Plan Approval in addition to special land use approval. In order for the Site Plan to be approved, the site must be brought up to all relevant standards of this Ordinance, including, but not limited to, lighting, signage, dumpster enclosures, landscaping, and parking. The Planning Commission may refer the required Site Plan Approval to the Community Development Director for Administrative Site Plan Review, upon determining that the physical site changes required are minor in nature. The applicant may submit an application for Site Plan Review by the Planning Commission. The site plan can be reviewed concurrently with the application for special land use.
4. **Technical Review.** Special land use applications may be forwarded to the planner, engineer, and city department heads for review to determine compliance with applicable City, County and State ordinances and standards. For special land use applications determined not to be in substantial compliance by any technical reviewer, the applicant may be required to complete revisions and re-submit the application for further review prior to final action.

#### **B. Planning Commission review.**

1. **Public hearing required.** Prior to making a recommendation and as a part of completing a review and study of a special land use application, the planning commission shall hold a public hearing in accordance with the procedures set forth in [Section 8.04](#).
2. **Planning Commission recommendation.** The planning commission shall review the application for special land use, together with the public hearing findings and reports and recommendations from the Community Development Director, City Planner, City Engineer, and other departments. The Planning Commission shall then make a determination on the special land use application, based on the applicable requirements. The Planning Commission may recommend approval, approval with conditions, or denial of a special land use request to the City Council as follows.
  - a) **Approval.** Upon determination by the Planning Commission that the application and associated materials for special land use is in compliance with the standards and requirements of this chapter and other applicable ordinances and laws, approval shall be recommended to the City Council.
  - b) **Approval with conditions.** The Planning Commission may impose reasonable conditions with the recommendation for approval of a special land use proposal, to the extent authorized by law. Conditions imposed shall meet all of the following requirements:
    - 1) Conditions shall be designed to protect natural resources, the health, safety and welfare, and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
    - 2) Conditions shall be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
    - 3) Conditions shall be necessary to meet the intent and purpose of this chapter, related to the standards established in this chapter for the land use or activity under consideration, and necessary to ensure compliance with those standards.

c) **Denial.** Upon determination by the Planning Commission that a special land use proposal does not comply with the standards and regulations set forth in this chapter, or otherwise would be injurious to the public health, safety, welfare, and orderly development of the city, the special land use proposal shall be recommended for denial to the City Council.

3. The Planning Commission shall prepare and transmit a report to the City Council stating its conclusions and recommendation, the basis for its recommendation, and any conditions relating to an affirmative decision.

**C. City Council review.** The City Council shall make a determination based on review of the special land use application together with the findings and recommendation of the Planning Commission, the reports from the Community Development Director, City Planner, City Engineer, and other departments and in accordance with approval standards of this ordinance. Following completion of its review, the City Council shall approve, approve with conditions, or deny the Special Land Use proposal in accordance with the guidelines of this ordinance.

**D. Procedures after City Council review.**

1. **Performance guarantee.** The Planning Commission may recommend, and the City Council may require that a performance guarantee be deposited with the city to ensure faithful completion of the improvements in accordance with [Section 8.12](#). Improvements that shall be covered by the performance guarantee include, but are not necessarily limited to landscaping, open-space improvements, streets, lighting, and sidewalks.
2. **Recording and continued compliance with conditions of approval.** Approval by the City Council may require additional conditions and safeguards as deemed necessary for the protection of the health, safety, and general welfare and individual property rights as well as ensuring that the intent and objectives of this chapter are observed. The breach of any condition, safeguard or requirement and the failure to correct such breach within 30 days after an order to correct is issued by the city shall be reason for immediate revocation of the approval. Additional time for correction of the cited violation may be allowed by the city upon submission of proof of good and sufficient cause. Conditions and requirements stated as a part of special land use approval authorizations shall be continuing obligations of the holders of such permits and are binding upon their heirs and assigns and upon any persons taking title to the affected property while such special use permit is in effect. Accordingly, the special land use approval and any conditions shall be recorded with the Oakland County Register of Deeds.
3. **Approval effective date.** Special land use approval shall be effective for a period of one (1) year. If after a period of one (1) year from the date of City Council approval, site plans have not been reviewed and approved, special land use approval shall automatically be revoked. The Planning Commission may, upon written request of the applicant, prior to the expiration period, grant one (1) extension up to twelve (12) months.
4. **Amendments to approved special land uses.** When an application is received to expand or change the use, traffic pattern, or other elements of a special land use, the application shall be subject to the same procedures followed for an original special land use.
5. **Resubmission.** No application for a special land use which has been denied by the city council shall be resubmitted until the expiration of one (1) year from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions sufficient to justify reconsideration by the planning commission. Each reapplication will be treated as a new application.

6. **Revocation of special land use approval.** Approval of a special land use proposal and site plan may be revoked by the City Council if construction has not commenced or if the use is operating contrary to the conditions of approval. In such a case, the Community Development Director shall place the Special land Use proposal on the agenda of the City Council. Written notice shall be provided to the applicant at least five days prior to the meeting at which the case will be considered. The applicant shall be given the opportunity to present information and to answer questions. The City Council, as appropriate, may revoke approval if it finds that a violation exists and has not been remedied prior to the hearing.
- E. Standards for granting special land use approval Prior to the Planning Commission making a recommendation and the City Council approving any application for a special land use approval, the planning commission and city council shall find adequate evidence that the proposed use:
1. Will be harmonious with and in accordance with the general objectives of the master plan;
  2. Will be designed, constructed, operated and maintained in harmony with the existing and intended character of the general area and so that the use will not change the essential character of that area;
  3. Will not be hazardous or disturbing to existing or future neighboring uses;
  4. Will represent an improvement to property in the immediate vicinity and to the community as a whole;
  5. Will be served adequately by essential public services and facilities, such as highways, streets, drainage structures, sewer and water infrastructure, police and fire protection and refuse disposal, or that persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services;
  6. Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community;
  7. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person or property or to the general welfare by reason of excessive smoke, fumes, glare, noise, vibration or odors; and
  8. Will be consistent with the intent and purposes of this chapter.

## Section 8.04 Public Hearing

A body charged with conducting a public hearing required by this Ordinance shall, upon receipt of a completed application, select a reasonable time and place for such a hearing. Such hearings shall be subject to the procedures set forth in the Michigan Zoning Enabling Act, PA 110 of 2006, MCL 125.3103 et seq., as amended.

Any public hearing required by the City Zoning Ordinance shall use the following procedures to provide notification of the hearing. Any amendments to the Michigan Zoning Enabling Act, PA 110 of 2006, MCL 125.3103 et seq. that alter the public hearing procedure requirements following the date of adoption of this Zoning Ordinance will supersede the following procedures.

- A. **Publication in a Newspaper of General Circulation.** Notice of the request shall be published in a newspaper of general circulation not less than 15 days before the date the application will be considered for approval.
1. **Personal or mailed notice.**

- a) Notice shall be sent by mail or personal delivery to the owners of property that is the subject of the application.
  - b) Notice shall be sent to all persons to whom real property is assessed within 300 feet of the property that is the subject of the application regardless of municipal jurisdiction.
  - c) Notice shall be given to the occupants of all structures within 300 feet of the property that is the subject of the application regardless of municipal jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance(s) to the structure.
  - d) All notices delivered by mail or personal delivery must be given not less than 15 days before the date of the public hearing. Notice shall be deemed given when personally delivered or when deposited during normal business hours for delivery with the US postal service or other public or private delivery service. If the name of the occupant is not known, the term “occupant” may be used for the intended recipient of the notice.
  - e) The City shall maintain a list of property owners and occupants to whom notice was mailed.
2. **Content.** Any notice published in a newspaper or delivered by mail shall:
- a) Describe the nature of the request.
  - b) Indicate the property that is the subject of the request including a listing of all existing street addresses within the property. If no such addresses exist, other means of identifying the property may be used.
  - c) When and where the public hearing will occur.
  - d) When and where written comments may be submitted concerning the request.
  - e) For amendment to the zoning ordinance, a notice shall also include the place and times at which the proposed text or amendment to the official zoning map may be examined.
3. **Public hearing procedures for Zoning Ordinance amendments.** Public hearings for Zoning Ordinance amendments, including both text and map amendments, shall be noticed as follows:
- a) The procedure for notification for public hearings shall be as listed in [Section 8.04](#) except for any group of adjacent properties numbering 11 or more that is proposed for rezoning, in which case personal and/or mailed notice is not required.
  - b) **Notice to other entities.** Notice of the time and place of the public hearing shall also be given by mail to any of the following entities that have registered their name with the City Clerk for the purposes of receiving public notice: any electric, gas, or pipeline public utility company; each telecommunication service provider; each railroad operating within the district or zone affected; and the airport manager of each airport.

## Section 8.05 Amendments/Rezoning

The City Council may, at its own initiative or upon recommendation from the City Planning Commission or upon petition, amend, supplement or change the regulations or the district boundaries of this Chapter as established herein pursuant to the authority and procedure set forth in Act 110 of the Public Acts of 2006, as amended. The City Planning Commission, as established by Section 4.12 of the Charter, and by Section 2-310 of the Code of Ordinances, in accordance with Michigan Statutes Annotated, Sections 5-2991 to 5.3006, is hereby designated as the commission specified in Section 301 of the Act 110 of the Public Acts of 2006, as amended, and shall perform the duties of such commission as provided in the statute in connection with amendments to this Chapter.

- A. Any applicant desiring to have any change made in this Chapter shall submit a petition to the City Clerk who shall officially refer same to the City Planning Commission for study and the statutory public hearing. Also, applicant shall deposit a fee as established by the City Council with the City Treasurer at the time that the petition is filed to cover the publication and other miscellaneous costs for said proposed change. If applicant is not the property owner, the property owner shall also endorse the petition.
- B. At least one (1) public hearing shall be held by the City Planning Commission before an amendment becomes effective. A notice of the time, place and purpose of a public hearing shall be published in a newspaper having circulation in the City and be sent by mail or personal delivery to the property owner involved in the request; property owners within three-hundred (300) feet of the property; and all occupants of structures within three-hundred (300) feet of the property regardless of the zoning jurisdiction not less than fifteen (15) days prior to the date of such hearing. The notice shall also describe the nature of the request, the street address(es) involved in the request, and when and where written comments will be received.
- C. If the requested rezoning involves eleven (11) or more adjacent properties, all the above listed notification requirements are required except that notification by mail or personal delivery to property owners within three-hundred (300) feet of the property; and all occupants of structures within three-hundred (300) feet of the property regardless of the zoning jurisdiction is not required. And no individual addresses of properties are required to be listed.
  1. After the public hearing, the City Planning Commission shall make a final report to the City Council. A summary of the comments submitted at the public hearing shall be transmitted with the report of the Commission to the City Council. The City Council may hold additional public hearings if it considers it necessary, or as may be required by charter.
  2. The City Council may then adopt the amendatory ordinance after receipt of the City Planning Commission's report, or refer the ordinance and maps again to the City Planning Commission for a further study and report.
  3. Upon presentation of a protest petition, an amendment to this Chapter which is the object of the petition shall be passed only by a two-third (2/3) vote of the City Council, unless a larger vote, but not to exceed three-quarter (3/4) vote, is required by ordinance or charter. The protest petition shall be presented to the City Council before final legislative action on the amendment, and shall be signed by one (1) 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 a 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.
  - c) Publicly owned land shall be excluded in calculating the twenty (20) percent land area requirement.
4. Following adoption of an amendment to this Chapter by the City Council, one (1) notice of adoption shall be published in a newspaper of general circulation in the City within 15 days after adoption. The notice shall include:
- a) Either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
  - b) The effective date of the amendment.
  - c) The place and time where a copy of the amendment may be purchased or inspected."

## Section 8.06 Amendments Required to Conform to Court Decree

Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction shall be adopted by the City Council and published, without necessity of a public hearing or referral thereof to any other board or agency.

## Section 8.07 Criteria for Amendment of the Official Zoning Map

In considering any petition for an amendment to the Official Zoning Map, the Planning Commission and City Council shall consider the following criteria in making its findings, recommendations, and decision:

- A. Consistency with the goals, policies and future land use map of the Harper Woods Master Plan. If conditions upon which the Master Plan was developed (such as market factors, demographics, infrastructure, traffic and environmental issues) have changed significantly since the Master Plan was adopted, as determined by the City, the Planning Commission and Council shall consider the consistency with recent development trends in the area.
- B. Compatibility of the site's physical, geological, hydrological and other environmental features with the host of uses permitted in the proposed zoning district.
- C. Evidence the applicant cannot receive a reasonable return on investment through developing the property with at least one (1) of the uses permitted under the current zoning.
- D. The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
- E. The capacity of the City's infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and, welfare".
- F. The apparent demand for the types of uses permitted in the requested zoning district in the Harper Woods area in relation to the amount of land currently zoned and available to accommodate the demand.

- G. The request has not previously been submitted within the past one (1) year, unless conditions have changed, or new information has been provided.
- H. Other factors deemed appropriate by the Planning Commission and City Council.

## Section 8.08 Criteria for Amendment to the Zoning Ordinance Text

The Planning Commission and City Council shall consider the following criteria to determine the appropriateness of amending the text, standards and regulations of the Zoning Ordinance.

- A. Documentation has been provided from City staff or the Zoning Board of Appeals indicating problems and conflicts in implementation of specific sections of the Ordinance.
- B. Reference materials, planning and zoning publications, information gained at seminars or experiences of other communities demonstrate improved techniques to deal with certain zoning issues, or that the City's standards are outdated.
- C. The City Attorney recommends an amendment to respond to significant case law.
- D. The amendment would promote implementation of the goals and objectives of the City's Master Plan.
- E. Other factors deemed appropriate by the Planning Commission and City Council.

## Section 8.09 Restrictions on Resubmittal of a Rezoning Request

An application for an amendment to the Official Zoning Map (*i.e.* a rezoning request) that has been denied, shall not be reconsidered for one (1) year, unless the applicant demonstrates that conditions have changed.

## Section 8.10 Conditional Rezoning

- A. **Intent.** The City of Harper Woods recognizes that, in certain instances, it would be advantageous to both the City and to a property owner seeking rezoning, if the property owner proposes certain conditions and limitations as part of their rezoning petition. Therefore, the city provides a process consistent with the provision of section 405 of the Michigan Zoning Enabling Act (PA 110 of 2006), as amended, to permit property owners to offer conditions regarding a use and/or development of land as part of the rezoning request. A conditional rezoning is intended to accomplish, among other things, the objectives of the Zoning Ordinance and the Master Plan.
- B. **Authorization and eligibility.**
  - 1. The standards of this section grant an applicant the option of voluntarily proposing conditions for the development and use of property in connection with the submission of a rezoning petition. Such conditions may be proposed at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.
  - 2. To be eligible for consideration, an applicant must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific conditions (to be set forth in a conditional rezoning agreement) that are stricter or limiting than the regulations that would apply to the land under the proposed new zoning district. Such conditions may include, but are not limited to, the following:

- a) The location, size, height, or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture, and other physical features of the proposed development.
- b) Specification of maximum density or intensity of development and/or use (*i.e.*, units per acre, maximum usable floor area, or hours of operation).
- c) Preservation of open space and/or natural features.
- d) Improvements to address traffic issues, including paving, and/or substantial improvements to or funding of improvements to roads to the benefit of the entire city.
- e) Site improvements such as signage, lighting, landscaping, and exterior building materials, above and beyond what would otherwise be required.
- f) Limitations on permissible uses of the property.
- g) Any other conditions that are voluntarily proposed by the applicant.

**C. Review criteria.** A conditional rezoning may only be approved if it meets the following criteria:

1. **General standards.** All criteria listed in “Approval Standards” section above.
2. **Conforms with the zoning district requirements.** The use of the subject property is in conformity with all regulations governing development and use within the proposed zoning district, including, without limitation, permitted uses, lot area and width, setbacks, height limits, buffers, open space, and density; provided, however, the following apply:
  - a) Development and use of the property is subject to the more restrictive requirements shown or specified in the conditional rezoning agreement and supersedes all inconsistent regulations otherwise applicable under the Zoning Ordinance.
  - b) The City Council is authorized to grant modifications to the strict terms of the Zoning Ordinance governing dimensional requirements on the property; provided, such authorization to grant modifications is conditioned upon the City Council finding that each Zoning Ordinance provision sought to be modified will result in an enhancement of the development that is in the public interest, and that approving the modification is consistent with the Master Plan and with the surrounding area.
3. **Improves community.** Conditional rezoning results in an enhancement to the subject area, as compared to the existing zoning, and such an enhancement would be unlikely to be achieved or would not be assured in the absence of the use of conditional rezoning.
4. **Serves public interest.** As compared to the existing zoning and considering site-specific conditions and/or the proposed land uses, it is in the public interest to grant a conditional rezoning. In determining whether a proposed application is in the public interest, the benefits which would reasonably be expected to accrue from the proposal must be balanced against and be found to clearly outweigh the reasonably foreseeable detriments, taking into consideration best practices in planning, engineering, environmental and other principles.
5. **Enforceable conditions.** The offered condition(s) are likely to be enforceable.
6. **Use variance prohibited.** Does not have the same effect as a use variance.

7. **Site plan and special land use approvals required.** Does not relieve the applicant of the responsibility of securing any applicable site plan, plat, or condominium approvals. Special land use approvals, if permitted as part of the Conditional Re-Zoning Agreement (CRA), do not have to be separately considered, noticed, and approved.

- D. Effect of approval.** Approval of the conditional rezoning confirms only the rezoning of the property, subject to any conditions reflected in the conditional rezoning agreement. Any applicable site plan, plat, condominium, or variance approvals is required before any improvements to the property may be undertaken.

If approved, the zoning district classification of the subject property must consist of the district to which the property has been rezoned, accompanied by a reference to “CR, Conditional Rezoning”. The Zoning Map must specify the new zoning district, plus a reference to “CR”. Use of the property classified and approved must comply with the conditions set forth in the CRA. No development or use of the land inconsistent with the CRA is permitted.

**E. Compliance.**

1. Any person who establishes a development or commences a use upon land that is conditional rezoned must continuously operate and maintain the development or use in compliance with all of the conditions set forth in the conditional rezoning agreement. Failure to comply constitutes a violation of this Zoning Code and deemed a nuisance per se and subject to judicial abatement as provided by law.
2. No permit or approval may be granted under this Zoning Code for any use or development that is contrary to an applicable conditional rezoning agreement.

**F. Period of approval.**

1. Conditional rezoning approval expires one (1) year from the effective date of the rezoning, unless substantial progress towards obtaining site plan and other required approvals has been made and expires two (2) years from the effective date of the rezoning, unless development of the property is substantially started and proceeds diligently and in good faith as required by the Zoning Code to completion.
2. In the event substantial progress towards obtaining site plan and other required approvals has not commenced within one (1) year and bona fide development has not commenced within 2-years from the effective date of the rezoning, the conditional rezoning and agreement is void and of no effect.
3. The applicant may apply for a one (1) year extension. The request must be submitted to the city in writing before the approval time limit expires. The applicant must demonstrate why an extension should be granted and that there is a strong likelihood that the development or use will commence within the period of extension and proceed diligently to completion.
4. An extension request may be considered by the City Council following a recommendation by the Planning Commission.
5. If the conditional rezoning becomes void in the manner provided in this section, the following procedures apply:
  - a) The applicant may seek a new rezoning of the property within 30 days of the expiration of the period of approval.

- b) If no application is made for a new rezoning of the property, the land reverts to its former zoning classification.

**G. Conditional rezoning agreement requirements.** A Conditional Rezoning Agreement (CRA) must be executed between the applicant and the city at the time of City Council approval, and at a minimum, contain the following:

1. Identification of the requested zoning district and a listing of the conditions offered by the applicant.
2. A statement acknowledging that the conditional rezoning was proposed by the applicant, and further agreement and acknowledgment that the conditions and agreement are authorized by all applicable state and federal law and constitution, and that the agreement is valid and was entered into on a voluntary basis and represents a permissible exercise of authority by the City.
3. Agreement and understanding that the subject property cannot be developed or used in a manner inconsistent with the CRA.
4. Agreement and understanding that the approval and CRA is binding upon and to the benefit of the property owner and city, and their respective heirs, successors, assigns, and transferees.
5. The date upon which the conditional rezoning becomes void. If the City Council grants an extension of approval, a new conditional rezoning agreement with the new expiration date must be recorded.
6. Agreement and understanding that each of the requirements in the CRA represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved conditional rezoning, taking into consideration the changed zoning district classification and the specific use authorization granted.
7. A legal description of the subject property.
8. Development regulations impacted by the conditional rezoning, including but not limited to density, setbacks, height, site coverage, signs, parking, architecture, etc.
9. Revocation of approval provisions returning the property to its original zoning designation if the applicant violates the terms of the conditional rezoning agreement.
10. A conditional rezoning plan may be included as an exhibit to the agreement and may show the conceptual layout of the proposed development or use, along with any other information deemed relevant by the applicant. Inclusion of such a plan as an exhibit shall not replace the requirement for site plan, subdivision, condominium, or variance review and approval.

**H. Amendment of a conditional rezoning agreement.** Amendment of a CRA must be submitted, reviewed, and approved in the same manner as a new conditional rezoning application.

**I. Recordation of a conditional rezoning agreement.** A conditional rezoning becomes effective following publication in the manner provided by law, and, after recordation of the conditional rezoning agreement with the Wayne County Register of Deeds.

- J. Termination.** The City Council is the only body with the authority to terminate a CRA. The consideration to terminate the agreement must be for reasons of expiration of the agreement, discovery of false information upon which the initial approval was based, or the existence or discovery of new information that alters the viability of the approved rezoning. The termination must comply with any applicable provisions of this Zoning Ordinance and/or the CRA.

## Section 8.11 Zoning Board of Appeals

- A. Creation of Zoning Board of Appeals.** There is hereby established a Zoning Board of Appeals, which shall perform its duties and exercise its powers as provided by law in such a way that the objectives of this Chapter shall be observed, public safety secured and substantial justice done.
- B. Composition, term of office, removal, and compensation of members.** The Zoning Board of Appeals shall consist of seven (7) members appointed by the City Council. Appointments shall be for a period of one, two and three years so as nearly as may be possible to provide for the appointment of an equal number each year. Thereafter each member shall be appointed and hold office for the full three-year term. The members shall be citizens of the United States and residents of the City. One regular member shall be a member of the Planning Commission. Members may be removed for cause by the Council only after consideration of written charges and a public hearing. Any vacancies on the Board shall be filled by the Council for the remainder of the unexpired term. The compensation, if any, of the members of the Board shall be fixed by the Council.
- C. Officer, meetings, quorum, records, power of subpoena and production.** The Zoning Board of Appeals shall annually elect its own chairperson, vice-chairperson and secretary. All meetings shall be open to the public. Regular meetings shall be held at least once a month and special meetings shall be held at the call of the Chairman, as the Board may determine or upon written request of three members provided twenty-four (24) hours notice has been given to each member before the time set for such meetings. Four members of the Board shall constitute a quorum for the conduct of its business. Records shall be kept of all proceedings before the Board and minutes shall be kept of its official acts. The Board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.
- D. Procedure to notify interest parties.** The Zoning Board of Appeals shall adopt general rules and regulations relating to its procedures. A notice of the time, place and purpose of a hearing shall be published in a newspaper having general circulation in the City and shall be sent by mail or personal delivery to the person requesting the interpretation, variance, or appeal of an administrative decision not less than 15 days before the public hearing. If the request involves a specific parcel or parcels, then written notice of the time, place and purpose for the hearing shall be sent by mail to all property owners within 300 feet of the property; and all occupants of structures within 300 feet of the property regardless of the zoning jurisdiction not less than 15 days prior to the date of such hearing. The notice shall also describe the nature of the request, the street address(es) involved in the request, and when and where written comments will be received.
- E. Powers of board: interpretations and variances.** The Zoning Board of Appeals may, in specific cases and subject to appropriate conditions and safeguards, determine and vary the application of the regulations herein established in harmony with their general purpose and intent as follows:
1. The Zoning Board of Appeals shall interpret the provisions of this Chapter in such a way as to enforce the intent and purpose of the plan, as shown upon the map fixing the several zoning districts, in those

cases where the street layout actually on the ground varies from the street layout as shown on the aforesaid map.

2. In those cases where a district boundary line divides a lot of record, the Zoning Board of Appeals shall have power to permit the extension of a use permitted on the less restricted portion of such a lot to that portion which lies in the more restricted district; provided, that such extension shall be made for a distance not exceeding 50 feet beyond the district boundary line in any case.
3. The Zoning Board of Appeals shall have the power to permit variations in the requirements for outer courts in dwellings and to permit such variation or modification of yard, lot area, percentage of lot coverage and floor area requirements as may be necessary to secure the appropriate improvement of a parcel of land which was of such size, shape or dimension or which has such peculiar or exceptional geographical or topographical conditions that it cannot be appropriately improved without such variation or modification; provided, that the purpose and spirit of this Chapter shall be observed, the public safety secured and substantial justice done.
4. The Zoning Board of Appeals shall have the power to permit the erection and use of a building or an addition to an existing building of a public service corporation to be used for public utility purposes in any permitted district to a larger area than the district requirements established in this Chapter and permit the location in any district of a public utility building, structure or use provided that the Zoning Board of Appeals shall find such use, area, building or structure reasonably necessary for the public convenience and service and that such building, structure or use is designed, erected and landscaped to conform harmoniously with the general architecture and plan of such district.
5. The Zoning Board of Appeals shall have the power to permit in any zone the erection of bulletins, memorial markers or signs identifying a multiple dwelling area known by name, other signs not used for purposes of commercial advertising or a sign for a transient multiple dwelling structure, such as motels containing not less than 40 dwelling units, up to and in excess of 35 square feet in surface area, under a temporary permit or permanent conditions as will prevent them from becoming dilapidated, unsightly or a menace to the public health, safety or general welfare, after recommendation from the Planning Commission.
6. The Zoning Board of Appeals shall have the power to permit variation in location of a side drive, where side drives have been constructed in any block in a manner not in conformity with the provisions of this Chapter where an unnecessary hardship is inflicted.
7. The Zoning Board of Appeals shall have the power to permit a variation or modification in the required location of off-street parking facilities or in the amount of off-street parking facilities required or both, if after investigation by the Zoning Board of Appeals it is found that such variation is necessary to secure an appropriate development of a specific parcel of land which has such peculiar or exceptional geographical or topographical conditions or is of a size, shape or dimension that it cannot be reasonably developed in accordance with the provisions of this Chapter and that any variation will not be inconsistent with the spirit and purpose of this Chapter, with public safety and substantial justice.
8. Where there are practical difficulties or unnecessary hardships in complying strictly with this Chapter, the Zoning Board of Appeals may in specific cases, adjust any such condition in harmony with the general purpose and intent of this Chapter so that the public health, safety, and general welfare may be secured and substantial justice done. The Zoning Board of Appeals is specifically not authorized to grant use variances.

- F. Variances - standards.** In consideration of all appeals for variances the Zoning Board of Appeals shall review each case individually as to its applicability to each of the following standards so that the proposed variance:
1. Will be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and the applicable regulations of the zoning district in which it is to be located.
  2. Will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child-vehicle contacts in residential districts.
  3. Will be designed as to the location, size, intensity, site layout and periods of operation of any such proposed use to eliminate any possible nuisance emanating therefrom which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.
  4. Will be such that the proposed location, height of buildings or structures, location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.
  5. Will relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience of access by prospective patrons, continuity of development and need for particular services and facilities in specific areas of the City.
  6. Is necessary for the public convenience at that location.
  7. Is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.
  8. Will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
- G. Appeals to Board.** The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of this Chapter. They shall also hear and decide all matters referred to them or upon which they are required to pass under this Chapter. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant any matter upon which they are required to pass under this Chapter or to effect any variation from this Chapter. Such appeal shall be taken by any person aggrieved or by any officer, department, board or bureau of the City. Such appeal shall be taken within such time as shall be prescribed by the Board by the filing in writing, with the officer from whom the appeal is taken and with the Board of a notice specifying the grounds thereof.
1. The office from whom the appeal is taken shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. Such order may be

granted by the Board or by any competent jurisdiction on notice to the officer from whom the appeal is taken and on due cause shown.

2. Notice of the hearing shall be as prescribed in Section 8.04. Upon the hearing, any party may appear in person or by agent or by attorney. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, subject to conditions and limitations of this section. To that end the Board shall have all the powers of the officer from whom the appeal is taken. The decision of the Board in those and all other matters heard by it shall be final after five (5) days insofar as it involves discretion of the finding of facts.
3. Any applicant making an appeal before the Zoning Board of Appeals shall pay a fee to the City Treasurer in the amount established by the City at the time notice of appeal is filed, unless payment of such fee is waived by the general rules adopted by the Board.

#### **H. Appeal to Circuit Court.**

1. The decision of the Zoning Board of Appeals shall be final. However, a person having an interest affected by this title may appeal to the circuit court. An appeal of a decision by the Zoning Board of Appeals must be filed with the circuit court within 30 days after the Zoning Board of Appeals certifies its decision in writing or approves the minutes of its decision. Upon appeal, the court shall review the record and decision of the Zoning Board of Appeals to ensure that the decision:
  - a) Complies with the constitution and laws of the State.
  - b) Is based upon proper procedure.
  - c) Is supported by competent, material, and substantial evidence on the record.
  - d) Represents the reasonable exercise of discretion granted by law to the Zoning Board of Appeals.
2. If the court finds the record of the Zoning Board of Appeals inadequate to make the review required by this section, or that there is additional evidence which is material and with good reason was not presented to the Zoning Board of Appeals, the court shall further proceedings before the Zoning Board of Appeals on conditions which the court considers proper. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings or may affirm its original decision. The supplementary record and decisions shall be filed with the court.

As a result of the review required by this section, the court may affirm, reverse, or modify the decision of the Zoning Board of Appeals."

## **Section 8.12 Performance Guarantees**

Where in this Chapter there is delegated to the City Council, Zoning Board of Appeals or the City Planning Commission the function of establishing certain physical site improvements as a contingency to securing a zoning amendment, special approval, or variance, the City Council, Zoning Board of Appeals or the City Planning Commission may, to insure strict compliance with any regulation contained or required as a condition of the issuance of a permit, require the permittee to furnish a cash deposit, certified check, irrevocable bank letter of credit, or surety bond to be deposited with the City Clerk in an amount determined by the City Council, Zoning Board of Appeals or the City Planning Commission to be reasonably necessary to insure compliance hereunder; provided, however, that in fixing the amount of such cash deposit, certified check, irrevocable bank

letter of credit, or surety bond the City Council, Zoning Board of Appeals or the City Planning Commission shall take into account the size and scope of the proposed improvement project, current prevailing cost of rehabilitating the premises upon default of the operator, estimated expenses including legal fees to compel operator to comply by court decree, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The City may not require the deposit of the performance guarantee before the date on which the City is prepared to issue the permit. The city shall establish procedures under which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses. This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to Act No. 288 of the Public Acts of 1967 as amended, being Sections 560.101 to 560.293 of the Michigan Compiled Laws."

### **Section 8.13 Enforcement**

Overview of Administrative Responsibilities. The City Manager, or their duly authorized representative as specified in this article, is hereby charged with the duty of enforcing the provisions of the Zoning Ordinance. Furthermore, administrative responsibilities are vested in the following City entities and further detailed in this Article.

### **Section 8.14 Interpretation, Purpose and Conflict**

In interpreting and applying the provisions of this Chapter, such provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comforts, prosperity, and general welfare.

It is not intended by this Chapter to interfere with or abrogate or annul any ordinance, rules, regulations, or permits previously adopted or issued and not in conflict with any of the provisions of this Chapter, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, and likewise not in conflict with this Chapter; nor is it intended by this Chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this Chapter imposes a greater restriction or requires larger open spaces, or larger lot areas than are imposed or required by such Chapter or agreements, the provisions of this Chapter shall control.

### **Section 8.15 Violations and Penalties**

Any person violating or neglecting or refusing to comply with any of the provisions of this Chapter, upon conviction thereof, shall be punished by imposition of a fine not to exceed one-hundred dollars (\$100.00) or by imprisonment for a period not to exceed 90 days, or by imposition of both fine and imprisonment in the discretion of the court. Each day that a violation exists shall constitute a separate offense.

### **Section 8.16 Validity**

This Chapter and the various articles, sections, paragraphs, and clauses thereof, are hereby declared to be severable. If any article, section, paragraph or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Chapter shall not be affected thereby.

## Section 8.17 Effective Date

This Ordinance shall take effect ten (10) days after enactment as provided by the City Charter.

Introduced and Placed for First Reading: May 9, 2025;

Second Reading: June 9, 2025

Published (Grosse Pointe News): June 19<sup>th</sup>, 2025

Enactment: June 29, 2025