

City of New Buffalo

# Zoning Ordinance

DRAFT FOR REVIEW ONLY

April 11, 2024



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# Article 1. General Provisions

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## 1-01. Title

A) This Ordinance shall be known and may be cited as the “City of New Buffalo Zoning Ordinance”, or “Ordinance”.

## 1-02. Purpose, Interpretation, Jurisdiction

- A) Pursuant to the authority granted to the City of New Buffalo by the Public Acts of the State of Michigan, this Ordinance is established to:
- 1) Promote and protect the public health, safety, and general welfare;
  - 2) Protect the character, stability, and beneficial development of the open space, residential, and non-residential areas;
  - 3) Provide adequate light, air privacy and convenience of access to property;
  - 4) Regulate the intensity of land use and lot areas to ensure open spaces surrounding buildings and structures provide adequate light and air and protect the public health;
  - 5) Lessen and avoid congestion on the public highways and streets;
  - 6) Promote healthful surroundings for family life in residential areas;
  - 7) Protect the public and adjacent uses from fire, explosion, noxious fumes or odors, excessive heat, dust, smoke, glare, noise, vibration, and other health and safety hazards;
  - 8) Prevent the overcrowding of buildings and structures by regulating the use and bulk of buildings in relation to the land surrounding them;
  - 9) Enhance the social and economic stability of the City;
  - 10) Enhance the aesthetic desirability of the environment throughout the City; and
  - 11) Conserve the expenditure of funds for public improvements and services.

### 1-03. Scope of Provisions

- A) **Interpretation and Application.** In its interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or general welfare.
- B) **Vested Rights.** Except as otherwise noted, nothing in this Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or any permissible activities therein; and all rights are hereby declared to be subject to such subsequent amendment, change or modification hereof as may be necessary to the preservation or protection of public health, safety, and welfare.
- C) **Zoning Rights Vested with Property, not Owner.** The right to continue a land use or activity or construct a building or structure which is either permitted by this Ordinance or established as a legal nonconformity shall be vested with the property rather than the owner. No rights shall be terminated for reasons of transfer of ownership. The right to continue a land use or activity shall transfer automatically upon the conveyance of the property.
- D) **Applicability of Zoning Ordinance Regulations.** Except as otherwise provided for in this Ordinance, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure, and every enlargement of, or addition to, an existing use, building and structure occurring after the effective date of this Ordinance, shall be subject to this Ordinance.

### 1-04. Severability and Conflicting Regulations

- A) **Severability.** If any part, division, section, provision, or portion of this Ordinance is adjudged unconstitutional, or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not thereby be affected but shall remain in full force and effect. If an application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgement shall not be applicable to any other structure, land, or water not specifically included in said judgement.
- B) **Conflicting Regulations.** Whenever there is conflict between this Ordinance and other ordinances or regulations or between two (2) or more regulations of this Ordinance, the stricter standard shall apply.

## Article 2. Establishment of Districts

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### 2-01. Districts Established

#### A) Residential Districts.

- 1) R-1 - Single Family Residential District
- 2) R-2 - Lakefront Residential District
- 3) R-3 - High-Density Residential District

#### B) Nonresidential and Mixed-Use Districts.

- 1) CBD - Central Business District
- 2) GCD - General Commercial District
- 3) WM - Waterfront Marina District
- 4) BP - Business Park District
- 5) PSP - Public/Semi-Public District
- 6) NCD - Nature Conservation District
- 7) FP-1 - Floodplain District

### 2-02. Purpose and Intent of Districts

#### A) Residential Districts.

- 1) **R-1 - Single Family Residential District.** The R-1 - Single-Family Residential District is intended to provide housing for year-round residents primarily in single-family detached formats in the neighborhoods south of US-12. Single-family attached and multifamily uses are appropriate only in select areas along the CSX rail line and adjoining major vehicular corridors. The District is intended to allow supportive uses or facilities which are typically found in the City's single-family areas and which are compatible with the neighborhoods such as parks, home occupations, and small-scale institutional uses.
- 2) **R-2 - Lakefront Residential District.** The R-2 - Lakefront Residential District is intended to provide housing for year-round and seasonal residents in the neighborhoods north of US-12 near Lake Michigan. Single-family detached and attached formats including duplexes, townhouses, and rowhouses are allowed and greater densities and scales than in the areas south of US-12. The District is intended to allow supportive uses or facilities which are typically found in residential areas and are compatible with such residential uses such as parks, home occupations, and small-scale institutional uses. Limited commercial uses are appropriate in this district in the blocks adjoining downtown.

- 3) **R-3 - High Density Residential District.** The R-3 - High Density Residential District is intended to provide housing in multifamily and single-family attached formats, including duplexes, townhouses, rowhouses, and multifamily buildings. It is intended to increase the variety of housing available to residents and to accommodate attainable housing options.

**B) Nonresidential and Mixed-Use Districts.**

- 1) **CBD - Central Business District.** The CBD - Central Business District is intended to promote convenience retail and services, specialty retail, tourist-oriented retail and services, entertainment establishments, and professional offices in a concentrated format in the downtown along North Whittaker Street. This District is intended to serve City residents as well as the vacationing public. Mixed-use development is encouraged and should feature first-floor commercial entertainment, restaurants, and retail uses and upper-floor residential or office uses. The District is further intended to preserve the architectural quality of downtown and ensure that new development complements the historic built pattern.
- 2) **GCD - General Commercial District.** The GCD - General Commercial District is intended to promote a range of businesses that generate substantial traffic and serve a broad market including automotive services, marine sales and services, offices, and larger retail uses, along the City's major roadways. Standalone buildings and mixed-use development featuring first-floor retail and service uses and upper-floor residential or office uses are appropriate. The District is intended to promote visually pleasing corridor-oriented development through appropriate signage, lighting levels, attractive landscaping, and parking areas. The District is further intended to ensure adequate and safe access for motorists and pedestrians through combined access points and parking areas.
- 3) **WM - Waterfront Marina District.** The WM - Waterfront Marina District is designed to promote commercial and recreational boating along with those services related to harbor and waterway improvements, thereby facilitating navigation and providing safe and economical waterfront recreational development. The District is intended to promote restaurants, bars and taverns, hotels, motels, and municipal parks to serve the needs of residents and visitors and provide adequate access to the City's waterfront.
- 4) **BP - Business Park District.** The BP - Business Park District is intended to promote commercial and light-industrial uses that generate stable, year-round employment in a business park setting. The District is intended to promote development in visually appealing formats that function as an attractive gateway in the City's south along South Whittaker Street. The uses allowed generate minimal noise, smoke, odor, dust, dirt, noxious gases, vibration, glare, or traffic that impair the neighboring commercial and residential areas.
- 5) **PSP - Public/Semi-Public District.** The PSP - Public/Semi-Public District is intended to provide land for public, semi-public, and institutional uses throughout the community. The District includes all existing and future public and semi-public uses and designates land separately from commercial and residential uses.
- 6) **NCD - Nature Conservation District.** The NCD - Nature Conservation District is intended to protect from development conservation easements, conservation properties, and municipal parks that are designated as nature preserves. It is the intention of this section that water trails, nature trails, boardwalks, observation decks and other similar non-motorized transportation infrastructure are permitted in such areas.
- 7) **FP-1 - Floodplain District.** The FP-1 - Floodplain District is intended to preserve drainage basins in the community and to prevent building in areas subject to flooding and upon land which exhibits unstable soil characteristics. As the density of the population in the community increases and the urban area expands, the importance of preserving drainage basins and area around drainage streams for their intended purpose becomes acutely obvious. When the land is developed, a greatly increased amount of water runoff results from the replacement of open land with streets and buildings.

## 2-03. Zoning Map, Interpretation, and Annexed Land

- A) **Zoning Map.** The boundaries of the zoning districts enumerated in Section 2-02 are hereby established as shown on the Official Zoning Map, City of New Buffalo, which accompanies this text. One copy of the Official Zoning Map shall be maintained and kept up to date by the City Clerk, accessible to the public, and is the final authority as to the current zoning status of all property in the City.
- B) **Interpretation.** The boundaries of zoning districts shall follow center lines of alleys, streets, other rights-of-way, or lot lines, unless the district boundary lines are otherwise clearly indicated on the Official Zoning Map. If there is any uncertainty, contradiction, or conflict regarding the intended location of any district boundaries shown on the map, interpretation concerning the exact location of district boundary lines shall be determined, upon written application by the Board of Zoning Appeals. In arriving at a decision, the Board shall apply the following standards.
- 1) Where district boundaries are indicated to approximately follow lot of record lines, those lines shall be construed to be boundaries.
  - 2) Unless shown by dimension on the Official Zoning Map, where a district boundary divides a lot of record the location of the boundary shall be determined by use of the scale shown on the map.
  - 3) Where district boundaries are indicated as approximately following City limits, they shall be construed as following the City limits.
  - 4) A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of a naturally occurring change in a shoreline, the boundary shall be construed as following the actual shoreline. A boundary indicated as following the center line of a stream, river, canal, lake or other body of water shall be construed as following such center line.
  - 5) If a district boundary is indicated as being parallel to, or an extension of a feature described in this section it shall be so construed.
  - 6) Where physical or natural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered in this section the Board of Zoning Appeals shall determine the district boundaries.
- C) **Zoning of Vacated Areas.** If a street, alley, or other public right-of-way within the City is vacated by official governmental action and if the lands within the boundaries thereof attach to and become part of lands adjoining the street, alley or public right-of-way, such lands shall automatically acquire and be subject to the same zoning regulations applicable to adjoining lands and shall be governed by this Ordinance.
- D) **Zoning of Filled Land; Use of Waters.** If earthen fill is placed in any lake or stream, the created land shall be subject to the same zoning regulations applicable for lands to which the land attaches or is adjacent; and the created land shall be used for those purposes as are permitted under this Ordinance for the adjoining lands.
- E) **Zoning of Annexed Land.** When property is annexed into the City, the Planning Commission shall consider the appropriate district classification depending on the site size, context, and existing use. The Planning Commission shall propose an amendment to this Ordinance concerning the annexed land to the City Council within three (3) months of the effective date of the annexation. In the interim period no new development projects shall be approved, however expansions to existing facilities may be acted upon.

## Article 3. District-Specific Standards

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### 3-01. Bulk and Dimensional Standards

- A) **Bulk and Dimensional Standards.** Table 3-01(A) establishes the bulk and dimensional requirements for development or the use of a lot in each district.

Table 3-01(A): Bulk and Dimensional Standards							
Standard	R-1	R-2	R-3	CBD	GCD	WM	BP
<i>Lot Standards (Minimum)</i>							
Lot Area (sq ft)	7,500(1)	8,000(1)	10,000(1)	8,000	--	15,000	43,560
Lot Width (ft)	60	55	150	35	--	100	150
<i>Yard Setbacks (Minimum Unless Otherwise Stated)</i>							
Front (ft)	20	15	30	--	30	15	35
Front, Maximum (ft)	--	--	--	0	--	--	--
Exterior Side (ft)	6	6	20	--	10	--	15
Exterior Side, Maximum (ft)	--	--	--	0	--	--	--
Interior Side (ft)	6	3	15	10(2)	10	10(2)	15
Rear (ft)	30	30	30	25	30	10	20
<i>Building Standards (Maximum)</i>							
Building Height (ft)	35(3)	35(3)	35	45	35	35	40
Lot Coverage (%)	--	40	35	70	60	70	50
<i>Notes</i>							
(1) A lot area of half the minimum standard shall be allowed for duplex structures with a parti wall.							
(2) Where the adjoining lot has a building with a common parti wall no side yard shall be required.							
(3) A height of 65 feet shall be allowed for nonresidential uses. One additional foot shall be added to each required yard setback above the minimum for each foot of height above 35 feet.							



### 3-02. Calculating Dimensional Standards

- A) **Lot Width.** The horizontal distance between the interior side lot line and the opposite interior side or exterior side lot line measured parallel to the front lot line at the front lot line and at the required front setback line. For lots fronting on a cul-de-sac, lot width shall mean the horizontal distance between the side lot lines measured parallel to the front lot line at the required front setback line.

Figure 3.1. Lot Width

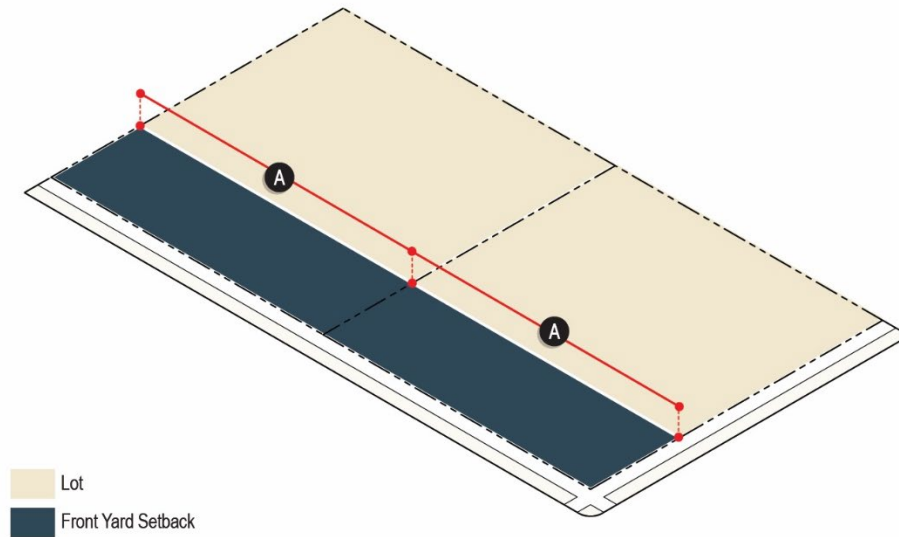
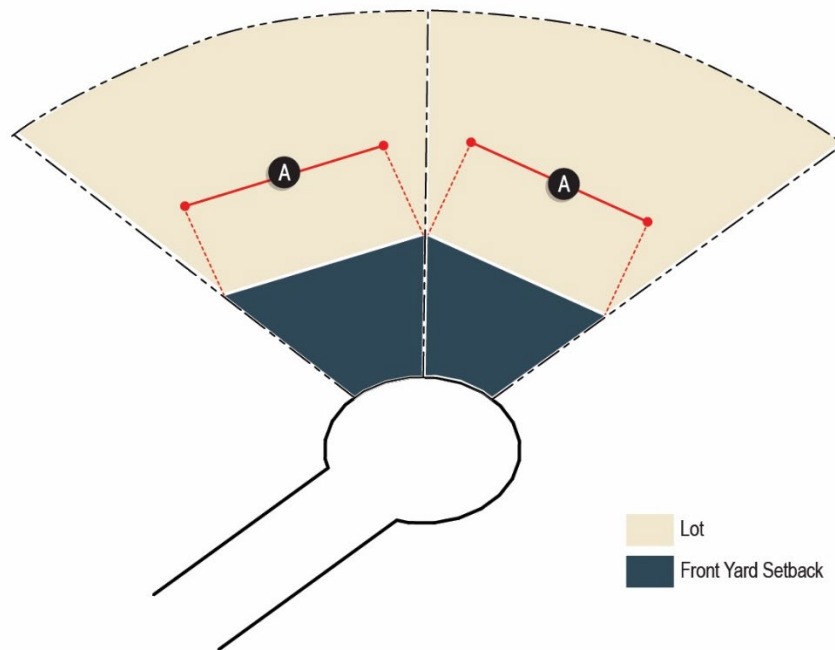


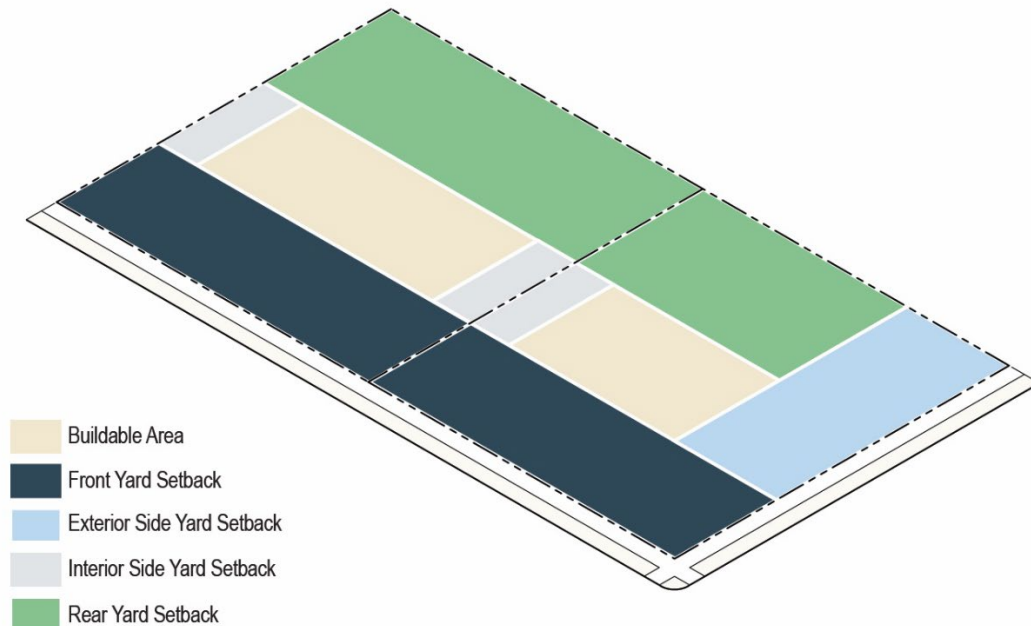
Figure 3.2. Lot Width For Lots Abutting A Cul-De-Sac



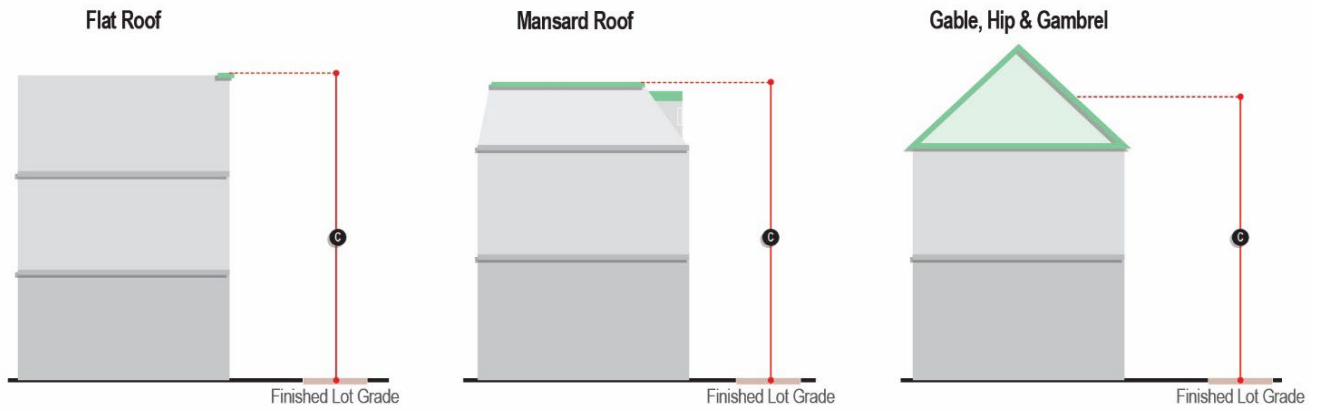
B) **Yard Setback.**

- 1) The depth of a yard setback shall be measured as the horizontal distance from the center point of the applicable lot line into the lot for the minimum distance established in Table 3-01(A).
- 2) The span of a yard setback shall be measured:
  - a) **Front Yard.** From the interior side lot line to the other interior side lot line or exterior side lot line as applicable;
  - b) **Exterior Side Yard.** From the front yard setback line to the rear lot line;
  - c) **Interior Side Yard.** From the front yard setback line to the rear yard setback line;
  - d) **Rear Yard.**
    - (1) From the interior side lot line to the other interior side lot line; or
    - (2) From the interior side lot line to the exterior side yard setback line.

**Figure 3.3. Yard Setbacks**

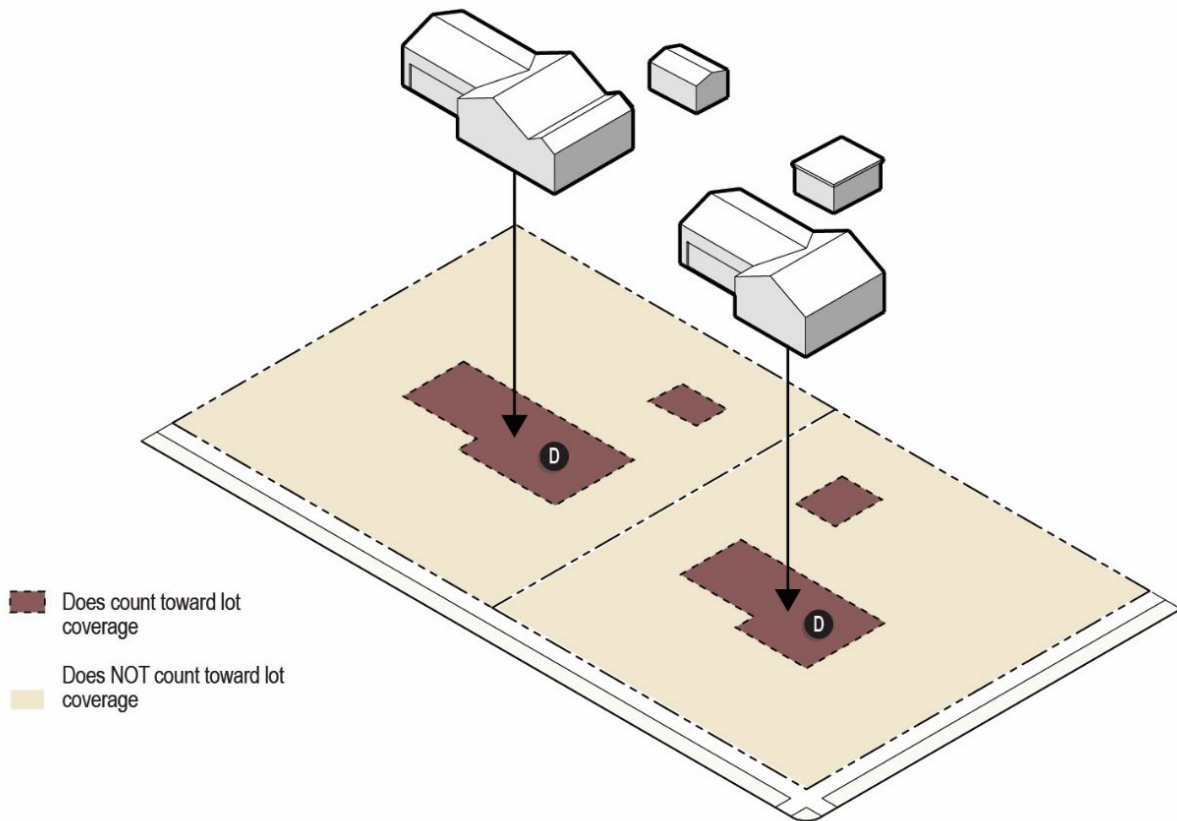


C) **Building Height.** The vertical distance measured from the mean elevation of the finished lot grade along the front yard of the structure to the mean elevation of the roof.



D) **Lot Coverage.** That portion of the area of lot that contains buildings and structures measured as a percent of the entire lot area.

Figure 3.4. Lot Coverage



### 3-03. Exceptions to Bulk and Dimensional Standards

- A) **Architectural Element Encroachment.** Architectural elements attached to and necessary to the integrity of or customary to the principal building shall be permitted to encroach upon the minimum rear or front setback requirements established in Table 3-01(A). No feature shall be closer than ten (10) feet from a street right-of-way or rear lot line and no encroachment shall be allowed in the required side setback. Such architectural features include the following.
- 1) Ramps for the disabled;
  - 2) Cornices;
  - 3) Eaves;
  - 4) Gutters;
  - 5) Chimneys,
  - 6) Unenclosed steps;
  - 7) Fire escapes;
  - 8) Roof overhang;
  - 9) Similar features.
- B) **Terrace, Patio, Porch, and Deck Encroachments.** Terraces, patios, porches, and decks shall be permitted to encroach upon the minimum front and rear setback requirements established in Table 3-01(A) provided that they are:
- 1) Attached to the main building;
  - 2) Not covered with a roof;
  - 3) Elevated no more than forty-eight (48) inches above the average surrounding final grade;
  - 4) Not fully enclosed by a wall or fence over five and one-half (5½) feet in height;
  - 5) Located no closer than ten (10) feet to a street right-of-way line or rear lot line.
- C) **Enclosed Porches Considered Part of Principal Building.** Terraces, patios, porches, and decks that are enclosed (covered with a roof), not including steps leading to such structures, shall be attached to and considered part of the main building and shall comply with the setbacks in Table 3-01(A).
- D) **Mechanical Appurtenances.** Except in the CBD - Central Business District, mechanical appurtenances, such as blowers, ventilating fans, and air conditioning units, may encroach into front, side, or rear setbacks but shall be placed not closer than twelve (12) feet to any lot line and shall be screened as required in Section 5-04.
- 1) **Height Projection and Area Allowed.** Any mechanical appurtenances, including elevator housings, stairways, tanks, heating, ventilation and air conditioning equipment, and other similar apparatus, located on the roof of any building shall not extend ten (10) feet above the roof surface and shall not occupy greater than fifteen (15) of the total area of the roof of the building on which it is placed.

### 3-04. Permitted, Special, Accessory, and Temporary Uses

- A) The following key shall be used in the interpretation of Table 3-04(A) and (B).
- 1) **Permitted Uses.** Uses which are marked as “P” in the table shall be allowed subject to all applicable regulations of this ordinance.
  - 2) **Special Uses.** Uses which are marked as “S” in the table shall be allowed subject to the issuance of a special use permit as detailed in Section 8-06.
  - 3) **Temporary Uses.** Uses which are marked as “T” in the table shall be allowed subject to the issuance of a temporary use permit as detailed in Section 8-03(D).
  - 4) **Prohibited Uses.** A blank space in the tables indicates that a use type is not allowed in the respective zoning district unless it is otherwise expressly allowed by other regulations of this Ordinance.
  - 5) **Additional Regulation.** If a use has use specific standards, the location of the standards is shown in the Additional Regulation column. Use specific standards shall apply to permitted, special, and temporary uses.
- B) **Permitted, Special, and Temporary Uses by District.**

Table 3-04(B): Permitted, Special, and Temporary Uses by District											
Use	Additional Regulation	R-1	R-2	R-3	CBD	GCD	WM	BP	PSP	NCD	FP-1
<i>Residential</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>CBD</i>	<i>GCD</i>	<i>WM</i>	<i>BP</i>	<i>PSP</i>	<i>NCD</i>	<i>FP-1</i>
Dwelling, Single-Family Detached	4-01(A)	P	P								
Dwelling, Duplex	4-01(A)		P	P							
Dwelling, Multifamily 2-8 units	4-01(B)			P		P	P				
Dwelling, Multifamily 8+ units	4-01(B)			P		P	P				
Dwelling, Residential, Above Ground Floor Retail Use	4-01(C)				P	P					
Dwelling, Townhome	4-01(D)		S	P							
<i>Residential Services</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>CBD</i>	<i>GCD</i>	<i>WM</i>	<i>BP</i>	<i>PSP</i>	<i>NCD</i>	<i>FP-1</i>
Adult Day Care Home		P	P	P							
Adult Foster Care Family Homes		P	P	P							
Adult Foster Care Small Group Homes		S	S	P							
Adult Foster Care Large Group Homes			S	S							
Adult Foster Care Congregate Facility						S					
Family Child Care Home		P	P	P							
Group Child Care Home		P	P	P							
Foster Family Homes		P	P	P							
Foster Family Group Homes		S	S	P							
Nursing and Convalescent Home		S	S	P		P					
Senior Living Facilities		S	S	P		P					
<i>Institutional &amp; Place of Assembly</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>CBD</i>	<i>GCD</i>	<i>WM</i>	<i>BP</i>	<i>PSP</i>	<i>NCD</i>	<i>FP-1</i>
Cemetery	4-03(A)								S		
Educational Facility	4-03(B)								S		
Governmental Uses									S		

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**Table 3-04(B): Permitted, Special, and Temporary Uses by District**

Use	Additional Regulation	R-1	R-2	R-3	CBD	GCD	WM	BP	PSP	NCD	FP-1
Health Care Facility						P		P	S		
Non-Commercial Place of Assembly	4-03(C)	S	S	S					S		
Commercial Place of Assembly	4-03(C)				S	S	S		S		
<i>Recreation, Amusement, and Lodging</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>CBD</i>	<i>GCD</i>	<i>WM</i>	<i>BP</i>	<i>PSP</i>	<i>NCD</i>	<i>FP-1</i>
Watercraft fueling station							S				
Campground	4-04(A)									S	P
Bed and breakfast	4-04(B)		S	S	S	S					
Hotel					P	P	P				
Motel						P	P				
Municipal or private port or marina							S				
Recreation Area							S			P	P
Forestry											P
Short-term rental					S	S	S				
<i>Retail</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>CBD</i>	<i>GCD</i>	<i>WM</i>	<i>BP</i>	<i>PSP</i>	<i>NCD</i>	<i>FP-1</i>
Adult Establishment	4-05(A)							S			
General Retail, 3,000 sqft or less					P	P					
General Retail, more than 3,000 sqft					S	P					
Marine-oriented retail businesses					P	P	P				
Multitenant Shopping Center						P					
Indoor Agriculture								P			
Marihuana Retailer	4-05(B)					S					
Nursery Retail	4-05(C)					P		P			
Nursery Wholesale								P			
Wholesale Establishment								S			
Pawnbroker											
<i>Service</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>CBD</i>	<i>GCD</i>	<i>WM</i>	<i>BP</i>	<i>PSP</i>	<i>NCD</i>	<i>FP-1</i>
Animal Boarding Facility/Kennel and/or Veterinary Service	4-06(A)					S		S			
General Service, 3,000 sqft or less					P	P		P			
General Service, more than 3,000 sqft					S	P		P			
Financial Institution						P		P			
Funeral Home								S			
Massage Service						S		S			
Office, above ground floor only					P	P					
Office, ground floor 3,000 sqft or less				S		P		P			
Office, ground floor more than 3,000 sqft						P		P			
Office Complex/Business Park								P			
<i>Eating and Drinking</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>CBD</i>	<i>GCD</i>	<i>WM</i>	<i>BP</i>	<i>PSP</i>	<i>NCD</i>	<i>FP-1</i>
Bar/Tavern					P	P	P				
Brewery/Winery/Distillery Tasting Room					P	P	P				

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**Table 3-04(B): Permitted, Special, and Temporary Uses by District**

Use	Additional Regulation	R-1	R-2	R-3	CBD	GCD	WM	BP	PSP	NCD	FP-1
Food Truck Court	4-07(A)						S				
Micro Brewery/Winery/Distillery					P	P	P				
Restaurant, Delivery/Carry Out						P					
Restaurant, Sit Down					P	P	P				
<i>Vehicle Related</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>CBD</i>	<i>GCD</i>	<i>WM</i>	<i>BP</i>	<i>PSP</i>	<i>NCD</i>	<i>FP-1</i>
Auto, Recreational Vehicle, or Watercraft Sales/Rental	4-08(A)					S		P			
Carwash	4-08(B)					S		S			
Major Automotive Repair	4-08(C)					S		S			
Minor Automotive Repair						S		P			
Vehicle Fuel Sales	4-08(D)					S		P			
<i>Industrial</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>CBD</i>	<i>GCD</i>	<i>WM</i>	<i>BP</i>	<i>PSP</i>	<i>NCD</i>	<i>FP-1</i>
Artisan Manufacturing					P	P		P			
Brewery/Winery/Distillery						P		P			
Composting/ Recycling Facility								S			
Distribution Facility								S			
Equipment Rental, Sales, and Service						P	P	P			
Extractive Industry							S	S			
Light Industry								P			
Salvage Yard											
Self-Service Storage Facility	4-09(A)					S		S			
Solid Waste Facility/ Solid Waste Transfer Station								S			
Storage Yard								S			
Warehouse								S			
Wireless Communication Towers	4-09(B)							S			
<i>Utility and Transportation</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>CBD</i>	<i>GCD</i>	<i>WM</i>	<i>BP</i>	<i>PSP</i>	<i>NCD</i>	<i>FP-1</i>
Loading Areas, Parking Areas, and Landing Strips As a Principal Use								P			
Railroad Use		P						P			
Telecommunications Tower		S	S	S	S	S	S	S	S	S	S
Waterborne Transportation Uses							P				
<i>Accessory</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>CBD</i>	<i>GCD</i>	<i>WM</i>	<i>BP</i>	<i>PSP</i>	<i>NCD</i>	<i>FP-1</i>
Accessory Retail	4-11(A)				P	P		P			
Accessory Building		P	P	P	P	P	P	P	P		
Accessory Dwelling Unit, Internal, Attached, or Above a Detached Garage	4-11(B)	P	P	P							
Accessory Dwelling Unit, Within a Detached Accessory Structure	4-11(B)	S	S	S							
Accessory Structure, Ground-Mounted	4-11(C)	P	P	P	P	P	P	P	P		
Accessory Structure, Rooftop	4-11(D)				S	S	S				

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**Table 3-04(B): Permitted, Special, and Temporary Uses by District**

Use	Additional Regulation	R-1	R-2	R-3	CBD	GCD	WM	BP	PSP	NCD	FP-1
Donation Drop Box	4-11(G)				P	P		P			
Drive Through	4-11(H)					S		S			
Electric Vehicle Charging Station	4-11(I)				P	P	P	P			
Home Occupations	4-11(J)	P	P	P	P	P					
Keeping of Animals	4-11(F)	P	P	P							
Outdoor Activity/Operation/Storage	4-11(K)					S		S			
Outdoor Dining	4-11(L)				S	S	S				
Outdoor Display/Sale of Merchandise, Permanent	4-11(M)				P	P	P				
Solar Energy Collection System, Canopy	4-11(N)	P	P	P	P	P	P	P	P	P	
Solar Energy Collection System, Ground-Mounted	4-11(O)	P	P	P	P	P	P	P	P	P	
Solar Energy Collection System, Roof-Mounted	4-11(P)	P	P	P	P	P	P	P	P	P	
Watercraft and Recreational Vehicle Parking	4-11(D)(3)	P	P	P							
<i>Temporary</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>CBD</i>	<i>GCD</i>	<i>WM</i>	<i>BP</i>	<i>PSP</i>	<i>NCD</i>	<i>FP-1</i>
Construction Related	4-12(A)	T	T	T	T	T	T	T	T	T	
Farmers Market					T	T	T				
Food Truck	4-12(B)						S				
Outdoor Display/Sale of Merchandise, Temporary	4-12(C)				T	T	T				
Portable Temporary Storage Container	4-12(D)	T	T	T	T	T	T	T			
Seasonal Sales	4-12(E)				T	T	T				



### 3-05. CBD - Central Business District Specific Standards

- A) **Exterior Building Cladding Materials.** Exterior building cladding materials shall be provided in accordance with this subsection on all building facades facing a front or exterior side lot line. The materials provided on each façade shall be consistent with or complement surrounding development.
- 1) **Ground Floor Materials.** Exterior building materials utilized on the ground floor shall be limited to wood, stucco, fiber cement, stone veneer systems, or masonry such as brick, stacked stone, stone masonry units, and architectural concrete masonry units.
  - 2) **Upper Floor Materials.** Exterior building materials utilized on upper floors may include all materials permitted on the ground floor as well as EIFS or precast panels with inlaid or stamped brick texture.
- B) **Façade Articulation.** Façade articulation involves the horizontal and vertical variation of the façade so that walls are subdivided into bays or sections that are vertically proportioned. The following provisions for façade articulation shall apply to any building elevations facing a front or exterior side lot line.
- 1) The frontage of the building shall be divided into architecturally distinct sections or bays with each section taller than it is wide.
  - 2) The sections shall be visually established by architectural features such as columns, bulkhead, masonry piers, cornices, window hoods, or similar elements that visually subdivide the wall and integrates with the overall design of the façade.
  - 3) The required dividing elements shall have a minimum width of one (1) foot and minimum projection to width ratio of 1:4.
- C) **Glazing.**
- 1) **Ground-Floor Glazing.** A minimum of fifty (50) percent of the ground floor of buildings shall include glazing. Glazing shall extend from a base of contrasting material (not exceeding four (4) feet in height above the adjacent grade) to at least the height of the door head on the primary facade. Glazing shall be transparent under all lighting conditions on the structure's first floor.
  - 2) **Upper-Floor Glazing.** A minimum of twenty (20) percent of the upper floor of buildings shall include glazing.
- D) **Entrance Orientation.** Main entrances to buildings shall be oriented toward the primary street adjoining the subject property. Secondary entrances are encouraged along secondary streets or along building frontages not adjoining a street.
- E) **Off-Street Parking Location.** Off-street parking provided in accordance with Section 5-01(C) shall be located to the rear of the principal building.
- F) **First-Story Awnings.** First-story awning projections are encouraged on the first-story of primary building facades. When provided, awnings shall extend between three (3) feet and a maximum of five (5) feet from the building façade.

### 3-06. FP-1 - Floodplain District Specific Standards

- A) **Interpretation.** All words and phrases used in this part shall be construed to have the same meaning as those words and phrases as defined in the full Federal regulations (24 CFR 1910.3(D)).[1] Editor's Note: See now the National Flood Insurance Program regulations found in 44 CFR 59.1 et seq.
- B) **General Regulations.** The FP-1 Floodplain District shall apply to all floodplain designated on the flood insurance rate map for the City of New Buffalo, Michigan, as published by the Federal Emergency Management Agency (FEMA) hereinafter referred to as FIRM. The regulations of this section shall apply.
- 1) Permits for all proposed development in any area of special flood hazard shall be required. The term "development" is defined as "any man-made change to improved or unimproved real estate, including but not limited to building or other similar type structures."
  - 2) Review of permits for proposed development shall be required to assure that all other necessary permits have been received from those governmental agencies from which approval is required by Federal or State law.
  - 3) New construction (including prefabricated buildings and mobile homes) and substantial improvements shall be anchored to prevent flotation and lateral movement, and be constructed with flood resistant materials and methods.
  - 4) Subdivision proposals and proposals for other developments, including their utilities and drainage, shall be located and designed to be consistent with the need to minimize flood damage.
  - 5) All subdivision proposals and other proposed development greater than fifty (50) lots or five (5) acres, whichever is less, include base flood elevation data.
  - 6) Require new water and sewer systems (including on-site systems) be located and designed to avoid impairment.
  - 7) Records of flood elevation and flood proofing levels for all new or substantially improved structures, and whether or not such structures contain a basement shall be obtained and maintained.
  - 8) Adjacent communities and State Coordination Office shall be notified prior to any alteration or relocation of a watercourse and submit copies of such notification to the Flood Insurance Agency (FIA). Within the altered or relocated portion of any watercourse, assure that the flood carrying capacity is maintained.
- C) **Specific FIRM Zones.** The following minimum requirements apply in specific zones designated on the FIRM.
- 1) In unnumbered A zones, obtain, review and reasonably utilize base flood elevation data from alternative sources, prior to its being provided by FIA through its Flood Insurance Rate Study, as criteria for requiring that all new residential structures and substantial improvements to existing structures have their lowest floor (including basement) elevated or flood proofed to or above the base flood level.
  - 2) In Zones A1-30, the following standards shall be required for new construction and substantial improvements.
    - a) Residential structures shall have the lowest floor (including basement) elevated to or above the base flood level, unless the community is granted an exception for all the allowance of basements and/or storm cellars by the FIA.
    - b) Nonresidential structures shall have the lowest floor (including basement) elevated to or above the base flood level, or be flood proofed to or above that level.
  - 3) In Zone AO, the following standards shall be required for new construction and substantial improvements.
    - a) Residential structures shall have the lowest floor (including basement) elevated above the crown of the nearest street to or above the depth number specified on the communities FIRM.

- b) Nonresidential structures shall have the lowest floor (including basement) elevated above the crown of the nearest street to or above the depth number specified on the community's FIRM, or be flood proofed to or above that level.
- 4) In Zones A1-30 and AO where floodproofing is used in lieu of elevation, a registered engineer or architect shall certify that the floodproofing methods used are adequate to withstand the forces associated with the base flood and submit such certification to the community, or submit to the FIA for approval, local regulations containing detailed floodproofing specification which meet the watertight performance standards.
- 5) In Zones A1-30, for new, substantially improved or expanded mobile home parks or subdivisions, stands or lots shall be elevated to or above the base flood level, and adequate accesses and drainage shall be provided, and if pilings are used for elevation, the construction standards for elevation on pilings shall be met and anchored in accordance with Federal Regulations (Sec. 1919-B9).
- 6) A regulatory floodway shall be adopted to carry the waters of the flood without increasing the base flood level more than one (1) foot at any point.
- 7) Development or encroachments (including fill) shall be prohibited in the floodway which would result in any increase in flood levels during the base flood discharge.
- 8) Mobile homes shall be prohibited in the regulatory floodway.

## Article 4. Use Specific Standards

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### 4-01. Residential Use-Specific Standards

#### A) Single-Family Detached Dwellings and Duplexes.

- 1) Duplexes shall be oriented with their primary entrances toward the designated front lot line.
- 2) Attached garages located on a front façade shall be setback as follows.
  - a) At least twenty (20) feet from the front lot line, and
  - b) At least five (5) feet behind the front façade of the principal building.

#### B) Multifamily All Units.

- 1) **Parking Location.**
  - a) All off-street parking provided for multifamily uses with between two (2) and eight (8) dwelling units shall be located in the rear and/or interior side yard.
  - b) All off-street parking provided for multifamily uses with more than eight (8) dwelling units shall be sited to minimize the visual impact from any right-of-way.

**C) Residential, Above Ground Floor Retail Use.**

- 1) No commercial uses, including storage, shall be located on the same floor of the building as the dwelling unit.
- 2) Access to the upper-floor dwelling unit(s) shall be from outside of the building separate from any retail or nonresidential use.

**D) Townhome.**

- 1) The primary entrance to a townhome or rowhome shall face the front lot line unless otherwise approved.
- 2) Attached garages shall be located on rear or side façades unless otherwise approved.
- 3) The maximum width of a townhome cluster shall be two hundred (200) linear feet.
- 4) The maximum width of a rowhome cluster shall be three hundred (300) linear feet.
- 5)

**4-02. Residential Services Use-Specific Standards**

RESERVE

**4-03. Institutional and Place of Assembly Use-Specific Standards****A) Cemetery.**

- 1) The minimum lot size for a cemetery shall be three (3) acres.
- 2) All structures shall be set back at least one-hundred (100) feet from any lot line.
- 3) Cemeteries shall comply with all applicable state and local laws and regulations.

**B) Educational Facility.**

- 1) A minimum lot width of two-hundred (200) feet shall be required. The front lot line shall abut a paved public street.
- 2) Athletic fields shall not be located closer than one-hundred (100) feet to any lot line abutting a residential district.

**C) Place of Assembly, Commercial and Non-Commercial.**

- 1) The operating hours of place of assembly uses located outdoors shall be limited to between 7:00am and 10:00 pm.
- 2) The location of entrances, exits, exterior lighting, speakers, service areas, and parking and loading facilities shall be designed to minimize traffic congestion and hazards to pedestrians and adverse impacts on adjoining properties.

**4-04. Lodging Use-Specific Standards****A) Campground.**

- 1) One hundred (100) square feet of recreation area shall be provided per campsite.
- 2) All public utilities shall be placed underground.
- 3) Every campground shall provide at least one (1) sanitary garbage pickup area on the site.
- 4) All campgrounds shall have direct access to an arterial street, however no direct access to an individual site shall be permitted from a public street.

**B) Bed-and-Breakfast Establishments.**

- 1) The establishment shall be located on property with direct access to a public street.
- 2) A residence must contain a minimum of two-thousand four-hundred (2,400) square feet of living space to qualify for conversion to a bed-and-breakfast.
- 3) Such uses shall only be established in a single-family detached dwelling.
- 4) Parking shall be located to minimize negative impacts on adjacent properties.
- 5) The number of guest rooms in the establishment shall not exceed three (3). One (1) additional guest room is allowed for each three thousand (3,000) square feet or fraction thereof by which the lot area of the use exceeds twelve thousand six hundred (12,600) square feet, not to exceed six (6) guest rooms in any case.
- 6) Exterior refuse storage facilities beyond what might normally be expected for a single-family detached dwelling shall be prohibited.
- 7) The establishment shall contain the principal residence of the operator.
- 8) Accessory retail or service uses to a bed-and-breakfast establishment shall be prohibited, including but not limited to gift shops, antique shops, restaurants, bakeries, and similar uses.
- 9) Meals shall be served only to the operator's family, employees, and overnight guests.
- 10) The maximum stay for any occupant, excluding the owner, shall not exceed thirty (30) days in any twelve (12) month period. A guest register shall be maintained by the proprietors and shall be made available to the City for inspection upon request.
- 11) No exterior evidence that the facility is a bed-and-breakfast shall be permitted, other than one (1) nonilluminated sign attached flat against the building or placed in the front yard, not to exceed six (6) square feet and no higher than six (6) feet above the ground, if freestanding.
- 12) No guest parking shall be permitted in the front yard and no parking area shall be lighted, except for a residential porch light.

**4-05. Retail Use-Specific Standards****A) Adult uses.**

- 1) The lot or parcel on which the use is located shall not be closer than one-thousand (1,000) feet to any residential use or zoning district, school, church, or park, measured from the lot line.
- 2) The use is not located within a one thousand (1,000)-foot radius of two (2) other such uses, measured from lot line to lot line.
- 3) No adult use shall remain open at any time between the hours of 11:00 pm and 10:00 am and no such use shall be open on Sundays.
- 4) No alcohol shall be served at any adult use.
- 5) No adult use shall permit any person under the age of eighteen (18) years to enter the premises. Signs shall be conspicuously posted that such minors are not allowed.
- 6) All parking areas and the building shall be well lighted to ensure the safety and security of patrons. These areas shall remain lighted for one (1) hour after closing each night.

B) **Marihuana Retailer.**

- 1) **Purpose and Intent.** The purpose of this section is to protect the public health, safety, and welfare, protect neighborhood character, minimize negative community impacts, and enact effective regulatory and enforcement controls through minimum land use requirements for marihuana establishments in the City. Marihuana establishments, as defined pursuant to Section 3 of the Michigan Regulation and Taxation of Marihuana Act (MRTMA), include a marihuana retailer permitted by applicable Rules for Adult Use Marihuana Establishments, as amended, promulgated by the State of Michigan Department of Licensing and Regulatory Affairs (LARA).
- 2) **License required.**
  - a) In addition to the Special Use Permit required by this section, a license issued by the City pursuant to Chapter 22 of the City Code shall be required prior to operating any marihuana retailer in the City, along with any other licenses or permits required by any other federal, state, or local agency having jurisdiction.
  - b) The issuance of a special land use permit pursuant to this section does not create an exception, defense, or immunity to any person in regard to any potential civil or criminal liability.
  - c) It shall be unlawful for any person to operate a marihuana retailer in the City without both obtaining a license pursuant to the requirements of Chapter 22 of City Code, and a special land use permit pursuant to the requirements of this section.
  - d) A separate special land use permit shall be required for each geographic location.
  - e) The planning commission may approve a special land use permit for multiple marihuana retailers at the same geographic location and/or in one building, provided that all appropriate licenses are obtained.
- 3) **General Provisions.**
  - a) Marihuana retailers shall be subject to the following requirements:
    - (1) Security. The marihuana retailer shall comply with all applicable security requirements contained in applicable Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.
    - (2) All marihuana and marihuana accessories shall be located within an enclosed, locked area, inaccessible on all sides, and equipped with locks that permit access only by the licensed operator or their employees, agents of LARA, law enforcement officers, emergency personnel, and other authorized individuals, as reviewed and approved by the City.
    - (3) Marihuana retailers shall use commercial-grade, nonresidential door locks on all points of entry and exit to the permitted premises.
    - (4) Security cameras are required to be installed and operated in marihuana retailers twenty-four (24) hours per day, three hundred sixty-five (365) days per year, and shall be directed to record only the subject property. Required security cameras may not be directed to public rights-of-way as applicable, except as required to comply with applicable Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.
  - b) **Buffering.** The distances described in this subsection shall be computed by measuring a straight line from the nearest property line of the land used for the purposes stated in this subsection to the nearest property line of the parcel used as a marihuana establishment. The following minimum-distancing regulations shall apply to all marihuana retailers. A marihuana retailer shall not be located:
    - (1) Within one-thousand (1,000) feet of a Family or Group Child Care center, whether or not it is in the City;
    - (2) Within one-thousand (1,000) feet of an Educational Facility, whether or not it is within the City;
    - (3) Within one-thousand (1,000) feet from the CBD District zoned property;

- (4) Within one-thousand (1,000) feet from a Non-Commercial Place of Assembly Use, whether or not it is located within the City; or
  - (5) Directly adjacent to an R-1, R-2, or R-3 Zoning District.
- c) **Exception.** The requirements above do not apply if the marihuana retailer was lawfully established prior to the location of an establishment or zoning district specified in items (a)-(e). For purposes of this subsection, directly adjacent parcels do not include parcels separated by a city street.
  - d) **Odors.** The marihuana retailer shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside is not detected outside the building in which it operates, on adjacent public rights-of-way, private road easements, or within other units located within the same building as the marihuana retailer if it occupies only a portion of the building.
  - e) The marihuana retailer shall be operated and maintained at all times so that any by-products or waste of any kind shall be properly and lawfully kept and disposed of so as to preclude any risk of harm to the public health, safety, or welfare.
  - f) The marihuana retailer shall not be operated out of a residence or any building used wholly or partially for residential purposes.
  - g) A marihuana retailer shall not be operated from a business which also sells alcoholic beverages or tobacco products.
  - h) No drive-through facilities shall be permitted.
  - i) The marihuana retailer shall comply at all times and in all circumstances with the MRTMA and the Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.
  - j) The owner and/or licensee shall maintain clear and adequate records and documentation demonstrating that all cannabis or cannabis products have been obtained from permitted and licensed cannabis operations. The City shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the City upon request.
  - k) In the event of any conflict, the terms of this ordinance are preempted and the controlling authority shall be the statutory regulations set forth by the MRTMA or the adopted Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.
- 4) **Effect of Permit.**
    - a) A special land use permit for a marihuana retailer is valid only for the location identified on the license and cannot be transferred to another location within the City without a new special land use permit.
    - b) A special land use permit does not prohibit prosecution by the federal government of its laws or prosecution by state authorities for violations of the MRTMA or other violations not protected by the MRTMA.
    - c) Compliance with the City Code and state law is a condition of maintenance of a special land use permit, and a license may be suspended or revoked if such ordinances and statutes are violated.
    - d) Nothing contained herein is intended to limit the City's ability to prosecute code violations that may have been the cause of the suspension or any other code violations not protected by the MRTMA.
  - 5) **Violations.** Failure to comply with the requirements of this section shall be considered a violation of the zoning ordinance.



- a) Request for revocation of state operating license. If at any time an authorized marihuana retailer violates this section or any other applicable City ordinance, the City may request that LARA revoke or refrain from renewing the marihuana retailer's state operating license.
- b) A new special land use application shall be required for a marihuana retailer to commence operation at the same location after an automatic revocation of a special land use approval. Any approval granted for a marihuana retailer shall be revoked automatically for the following reasons:
  - (1) Revocation or suspension of the licensee's authorization to operate by LARA.
  - (2) A finding by LARA that a rule or regulation has been violated by the licensee.
  - (3) Other violations of the City's zoning ordinance, special land use permit, or conditions imposed thereon by the planning commission.

**C) Nursery Retail.**

- 1) The overall area of any outdoor sales accessory use shall not exceed the area of the principal enclosed building.

#### **4-06. Service Use-Specific Standards**

**A) Animal Boarding Facility/Kennel and/or Veterinary Service.**

- 1) The use shall be conducted primarily within a fully enclosed building.
- 2) All litter and waste shall be contained and controlled on site by having appropriate flushing drains and other physical elements to properly dispose of cleaning waste from the boarding area.
- 3) Drainage from outdoor areas shall be directed to gravel, grassed, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters.
- 4) Outdoor areas shall be setback at least one hundred fifty (150) feet from any lot line adjoining a residential property. All outdoor areas shall be screened with a solid opaque fence or wall at least six (6) feet in height.
- 5) Solid waste will be removed from the outdoor area after each use of the area.
- 6) Use of outdoor areas between the hours of 10:00 pm and 7:00 am is prohibited.

#### **4-07. Eating and Drinking Use-Specific Standards**

**A) Food Truck Court.**

- 1) The maximum number of food trucks allowed on site shall depend on the size of the lot and the site's ability to provide required electrical access and parking. Site plans shall be provided to the City for review before permitting.
- 2) A minimum of ten (10) feet of clearance shall be provided between all individual food trucks.
- 3) The area for a food truck court shall be clearly defined and separated from all patron parking with an enclosure. Any use of fencing or planters to separate the food truck park from parking shall provide visibility into the site and shall not exceed four (4) feet in height.
- 4) Food truck courts are encouraged to create an inviting and attractive aesthetic environment and shall include seating and shade elements.
- 5) Any food truck court shall not be located less than one-thousand five hundred (1,500) feet from any other food truck court, as measured from the facility's property line.

- 6) Hours of operation for a food truck court shall be as recommended by the Planning Commission and approved by City Council through the Special Use Permit as deemed appropriate due to the site's location within the City, adjacent land uses, or other factors determined by the Planning Commission.
- 7) A minimum of one (1) trash receptacle and one (1) recycling receptacle shall be provided per food truck. The food truck court shall also provide a commercial dumpster outside of the designated patron area for waste disposal. The dumpster shall be screened in accordance with Section 5-04(A).

#### 4-08. Vehicle-Related Use-Specific Standards

##### A) Auto, Recreational Vehicle, or Watercraft Sales/Rental

- 1) All outdoor display areas for sales, rental, and service shall be improved with all-weather surfaces.
- 2) Parking lots used for the outdoor display of motor vehicles for sale and/or rent shall be exempt from the landscape spacing requirements for the parking area perimeter zone, as detailed in Section 5-03(F) and instead may cluster required landscape elements to preserve views to motor vehicles offered for sale and/or rent.
- 3) No vehicles shall be parked within the public right-of-way.
- 4) Repair bays shall not front adjacent public rights-of-way or face a parcel with a residential use or in a residential district.
- 5) No more than one (1) elevated display shall be used, raising the vehicle no more than three (3) feet off the ground.
- 6) Accessory uses and structures, such as car wash facilities and their incidental functions (vacuums and air compressors) shall be set back at least fifty (50) feet from public rights-of-way or a residential use or district.
- 7) No existing buildings shall be occupied or re-used for vehicle sales, rental and service unless all requirements of this Ordinance are met. The use shall operate in accordance with all other applicable federal, state, and local laws. If additional permits are required, such permits shall be obtained prior to the operation's approval.
- 8) Drainage from outdoor storage and/or activity areas shall be directed to gravel, grassed, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters.
- 9) Measures for containment of potentially contaminated runoff from vehicle-related activities shall be incorporated into the site plan to ensure that contaminated runoff does not reach storm drains or surface waters.

##### B) Carwash.

- 1) Hours of operation shall be restricted to between 7am and 10pm.
- 2) All carwash facilities and accessory equipment such as vacuums, dryers, and accessory uses shall be enclosed within a building, except for self-service vacuum units.
- 3) If self-service vacuum facilities are provided, a minimum of one (1) parking space for each vehicle capable of being serviced at any one time at such vacuum facility shall be provided.
- 4) Operations shall not create obstructions to traffic circulation on public streets.
- 5) Accessory equipment such as vacuum facilities shall be set back a minimum of fifteen (15) feet from all property lines.
- 6) All full-service or conveyor-based carwash facilities shall be equipped with a water recycling system that shall recycle a minimum of fifty (50) percent of the water being used by the facility
- 7) Drainage from outdoor storage and/or activity areas shall be directed to a catch basin with an oil separator.

##### C) Major Automotive Repair.

- 1) A Type C transition area, as detailed in Section 5-03(I), shall be required along lot lines adjacent to any parcel in a nonresidential or mixed-use district.
- 2) A Type D transition area, as detailed in Section 5-03(I), shall be required along lot lines adjacent to any parcel in a residential district.
- 3) All vehicle repair activities shall be within a completely enclosed building.

- 4) Service bay entrances shall not front a public right-of-way unless specifically approved.
- 5) Drainage from major automotive repair areas shall be directed to gravel, grassed, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters.
- 6) Measures for containment of potentially contaminated runoff from vehicle-related activities shall be incorporated into the site plan to ensure that contaminated runoff does not reach storm drains or surface waters

**D) Vehicle Fuel Sales.**

- 1) A minimum lot area shall be one-half (1/2) an acre and minimum lot width of one hundred fifty (150) feet shall be required.
- 2) Fuel pump canopies shall have a maximum height of seventeen (17) feet.
- 3) All fuel pump canopies shall be located a minimum of twenty (20) feet from the property lines.
- 4) All fuel pumps shall be located a minimum of twenty five (25) feet from any residential district or residential use boundary line.
- 5) Fuel pump canopy columns shall be clad in masonry, stucco, fiber cement, or stone veneer systems with a minimum thickness of three (3) inches, for a minimum of four (4) feet from the base of the column.
- 6) All equipment and activities associated with vehicle service operations, except incidental uses such as air hoses, shall be kept within an enclosed building.
- 7) The storage of vehicle components and parts, trash, supplies, or equipment outside of a building is prohibited.
- 8) If retail sales of convenience goods are conducted on the premises, parking for the retail component on-site shall be computed separately from the vehicle fuel sales requirement.
- 9) Access driveways shall be located no less than one-hundred (100) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.
- 10) Fuel pump canopies shall be lit with only fully recessed lighting.
- 11) Drainage from outdoor storage and/or activity areas shall be directed to a catch basin with an oil separator.

#### 4-09. Industrial Use-Specific Standards

##### A) Self-Service Storage Facility.

- 1) Doors serving individual self-storage units accessed directly from the outside shall not be visible from any public right-of-way.
- 2) Lighting and security cameras shall be provided to ensure safe operations on the site.
- 3) **Use Limitations.**
  - a) Storing hazardous or toxic materials is prohibited.
  - b) No self-storage space shall be used for residential occupancy, business sales or operation, the storage of commercial or industrial inventory or raw materials or the operation of machinery.
  - c) Outdoor storage and/or activity is prohibited.

##### B) Wireless Communication Towers.

- 1) The lot size shall be a minimum of twenty thousand (20,000) square feet.
- 2) The tower shall be of a monopole design.
- 3) The tower shall be set back from all lot lines a minimum distance equal to one-half (1/2) the height of the tower. All other buildings and structures shall meet the minimum setback requirements of the zoning district.
- 4) A security fence at least six (6) feet in height shall be constructed around the tower and supports.
- 5) Where possible, joint use of tower facilities, including City elevated storage tanks or other elevated structures, shall be required to minimize the number of separate towers and individual locations throughout the City. As a condition of approval, the applicant shall agree to permit future users to share the tower facility and shall demonstrate that it is not feasible to locate the proposed tower on public lands or co-locate on an existing tower.
- 6) Unless located on the same site or tower with another user, no new tower shall be erected within a one-half-mile radius of an existing radio, television, cellular, or wireless communications tower.
- 7) No signs, except warning or other cautionary signs, shall be permitted on the site.

#### 4-10. Utility and Transportation Use-Specific Standards

RESERVE

#### 4-11. Accessory Use-Specific Standards

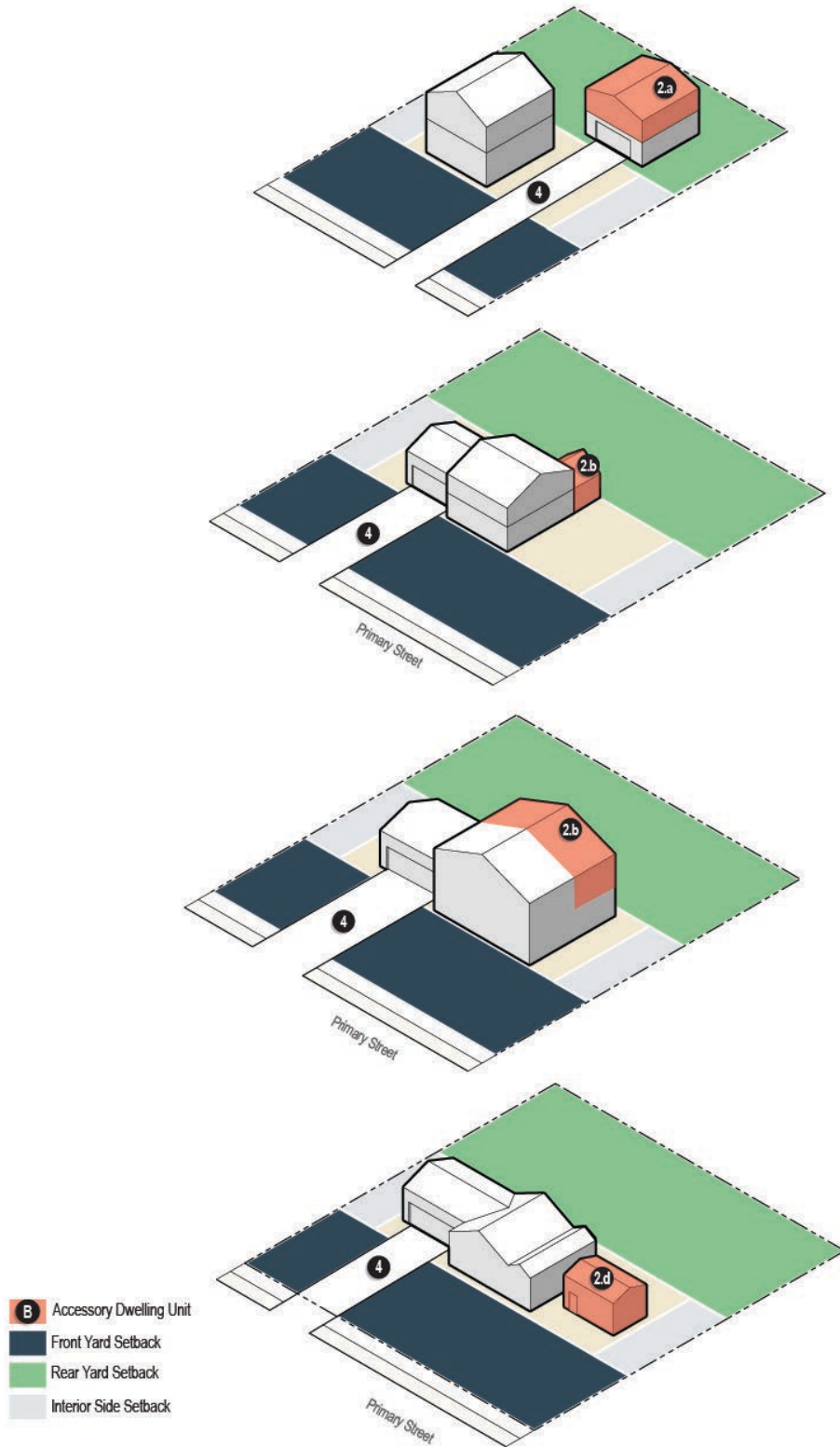
##### A) Accessory Retail.

- 1) The total area devoted to retail activity shall not exceed twenty-five (25) percent of the total area of the building in which the accessory retail activity shall be located.
- 2) Restroom facilities, if provided, shall be directly accessible from the accessory retail sales area.
- 3) Accessory retail sales areas shall be physically separated from other activity areas by a wall.

**B) Accessory Dwelling Unit.**

- 1) **Quantity.** One (1) detached, attached, or internal accessory dwelling unit shall be allowed per lot.
- 2) **Location.**
  - a) Accessory dwelling units located within a detached accessory structure may only be located above a detached garage. A standalone accessory structure used solely as an accessory dwelling unit may only be approved subject to Section 4-11(2)(d) below.
  - b) Attached or internal accessory dwellings shall comply with all regulations applicable to the principal building on the lot.
  - c) Architectural features that are structurally part of the accessory dwelling unit shall be allowed to encroach subject to the regulations of Section 3-03.
  - d) An accessory dwelling unit located within a standalone accessory structure and not above a detached garage will be permitted by Special Use Permit only, provided it can meet all setback and lot coverage requirements as defined in the Zoning Ordinance.
- 3) **Dimensions.**
  - a) The minimum size of an accessory dwelling unit shall be two-hundred twenty (220) square feet.
  - b) The maximum size of the internal accessory dwelling shall be twenty-five (25) percent of the floor area of the principal building.
  - c) Accessory dwelling units located within a detached garage shall comply with the size and dimensional standards for detached accessory structures in Section 4-11(D).
- 4) **Access.** The principal dwelling and accessory dwelling shall be served by a common driveway.
- 5) **Design.** The accessory dwelling shall have architectural features and exterior materials compatible with the principal building. Accessory dwelling units deemed incompatible by the Zoning Administrator shall go before the Planning Commission for review and final approval, approval with conditions, or denial.
- 6) **Use.** No accessory dwelling unit shall be used as a short-term rental as defined in this Ordinance.
- 7) **Ownership.**
  - a) The principal dwelling or accessory dwelling shall be the primary residence of the owner of the property.
  - b) An accessory dwelling must be kept in common ownership with the principal dwelling on the property.

Figure 4.1. Accessory Dwelling Unit Standards



C) **Accessory Structure, Ground-Mounted.**1) **General requirements.**

- a) No accessory structure shall be constructed on a site without a principal building.
- b) Attached accessory structures shall be made structurally a part of the principal building and shall conform to the dimensional standards of the district in which the structure is located.
- c) **Location.** Detached accessory structures shall be permitted only in the side or rear yard and not over an easement.

2) **Detached Accessory Structures - Residential Districts.**a) **Setback.** Accessory structures shall be setback a minimum of:

- (1) Two (2) feet from a side or rear property line,
- (2) Ten (10) feet from the primary structure, and
- (3) Six (6) feet from a lot line abutting an alley.

b) **Number of Buildings.** Up to two (2) accessory structures shall be permitted, however their combined area shall not exceed the maximum permitted area for detached accessory buildings. A swimming pool shall be permitted in addition to any detached accessory structure located on a lot or parcel.(1) **Maximum Permitted Area.**

- (a) Lots of ten thousand (10,000) square feet in area or less: nine-hundred sixty (960) square feet shall be permitted.
- (b) Lots greater than ten thousand (10,000) square feet in area, up to one (1) acre: One thousand five hundred (1,500) square feet shall be permitted.
- (c) Lots greater than one (1) acre: Two-thousand (2,000) square feet shall be permitted.

(2) **Maximum Rear Yard Coverage.** Detached accessory structures shall not cover more than forty (40) percent of the rear yard area.(3) **Permitted Height.** No detached accessory building shall exceed a height of twenty-two (22) feet.c) **Detached Accessory Structures - Nonresidential and Mixed-Use Districts.**

- (1) Detached accessory buildings having one-thousand (1,000) square feet of area or more shall be approved through the site plan review process.
- (2) Detached accessory buildings of less than one-thousand (1,000) square feet may be approved through a zoning permit.
- (3) Detached accessory structures in nonresidential or mixed-use districts shall be set back six (6) feet from all side and rear lot lines.
- (4) Accessory structures in nonresidential districts shall have a maximum area of one thousand two hundred (1,200) square feet or seventy five (75) percent of the gross floor area of the primary building, whichever is more.



3) **Carpports.**

- a) A carport shall shelter not more than three (3) vehicles and shall not exceed twenty-four (24) feet on its longest dimension.
- b) Carports shall be used for motor vehicle parking only. The storage of a boat or other watercraft under a carport shall be prohibited.
- c) Carports must be constructed out of durable materials, match the architecture of the primary structure, and be built on a permanent foundation.
- d) Carports must meet all setback and other applicable requirements of the governing zoning district.
- e) Carports are permitted in the rear and interior or exterior side yards only and shall not be constructed or installed in a front yard.

4) **Swimming Pools.**

- a) Every swimming pool, spa, hot tub, or similar device that contains twenty-four (24) inches or more of water in depth at any point, shall provide a fence or enclosure surrounding the device as follows, unless specifically exempted under the Michigan Building Code.
  - (1) Such side walls, fence, or enclosure, including the gates, shall not be less than four (4) feet or greater than six (6) feet above grade.
  - (2) All gates shall be self-latching with latches placed no less than four (4) feet above grade or otherwise made inaccessible from the outside to small children.
- b) Swimming pools shall be located at least ten (10) feet from any interior side or rear lot line, which are the only yards where they are permitted.
- c) No pool, spa, hot tub, or similar device regulated by this section shall be constructed, installed, enlarged, or altered until a permit has been obtained from the Zoning Administrator.

D) **Accessory Structure, Rooftop.**

- 1) Rooftop accessory structures may be located on a principal building only.
- 2) Rooftop accessory structures may exceed the building height maximum by no more than fifteen (15) feet.
- 3) Rooftop accessory structures shall be set back a minimum of ten (10) feet from any building facade.
- 4) The rooftop accessory structure may have an area of up to fifteen (15) percent of the area of the roof to which it is affixed only.
- 5) The roof shall contain sufficient space for future necessary operational installations such as mechanical equipment.

E) **Donation Drop Box.**

- 1) Donation drop boxes shall be on properties that contain a legally existing and operating use.
- 2) No more than two (2) donation drop boxes shall be permitted on a lot.
- 3) Each donation drop box shall not exceed seven (7) feet in height and twenty-five (25) square feet in ground area.
- 4) Donation drop boxes shall only be located in exterior or interior side or rear yard setbacks.
- 5) Donation drop boxes shall be located on an asphalt or concrete paved surface.

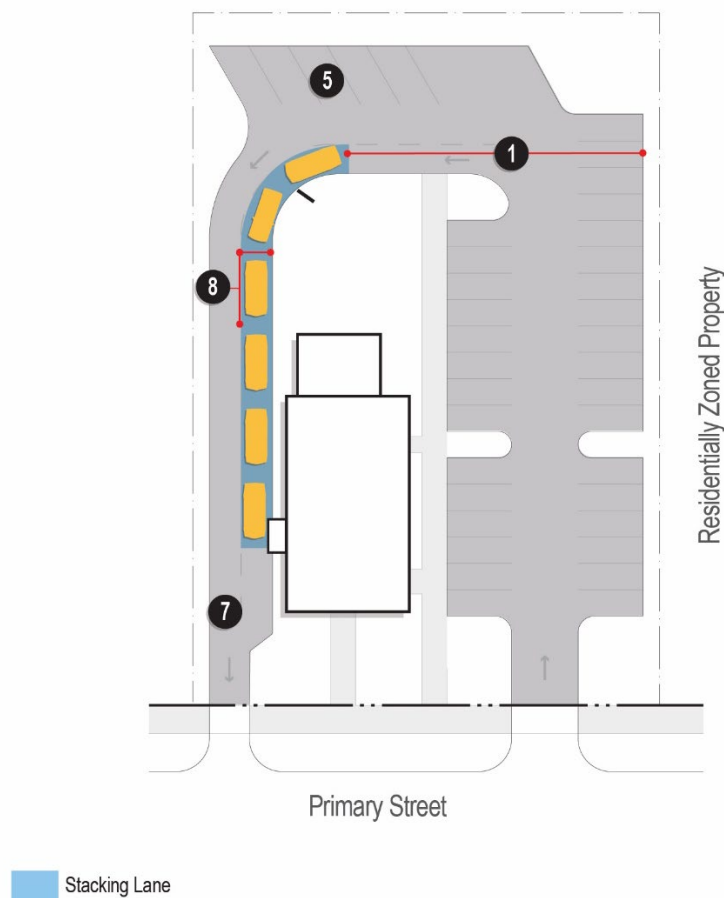
- 6) Donation drop boxes shall not locate in a driveway or drive aisle and shall not reduce the width of paved clear space for the passage of pedestrians to less than five (5) feet. Boxes shall not locate in such a way as to disrupt the flow of vehicular or pedestrian traffic.
- 7) Donation drop boxes shall not be located nearer than forty (40) feet from an adjoining lot in a residential district or with a residential use.
- 8) Donation drop boxes shall be located to the side or rear of the primary façade of the building.
- 9) A notice must be permanently affixed to each donation drop box in a highly visible location prohibiting the placement of items outside of the box. The name and twenty-four (24) hour telephone number of the owner/operator must be permanently affixed to each donation drop box.

**F) Drive Throughs.**

- 1) Any structural element of a drive through, including pavement, speaker boxes, or menu boards shall be located at least five hundred (500) feet from the parcel boundary of a residentially zoned parcel or with a residential use, unless otherwise approved through the special use permit process.
- 2) Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet unless a greater setback is required by this section. Access driveways shall be located no less than one-hundred (100) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.
- 3) Speakers shall be oriented away from adjoining residentially-zoned parcels or residential uses to minimize the potential nuisance effects of sound transmission and shall not be audible beyond the boundaries of the parcel.
- 4) Stacking spaces and lanes for drive through stations shall not impede on- and off-street traffic movement, shall not cross off-street parking areas or drive aisles and shall not impede pedestrian access to a public building entrance.
- 5) Drive through lanes shall be separated from off-street parking areas. Individual lanes shall be striped, marked, or otherwise delineated.
- 6) The hours of operation for a drive through adjoining a parcel with residential zoning or use shall be limited to between 7 am and 11 pm daily.
- 7) Drive-through facilities shall be provided with a bypass lane with a minimum width of ten (10) feet.
- 8) Stacking lanes shall have a minimum depth of twenty (20) feet per stacking space and the following minimum lane widths:
  - a) One (1) lane: twelve (12) feet,
  - b) Two (2) or more lanes: ten (10) feet per lane.
- 9) Drive through facilities shall be required to provide a minimum number of stacking spaces as detailed in Table 4-11(H)(9).

Table 4-11(H)(9): Drive Through Stacking Requirements		
Use	Minimum Stack	Measure From
Automated Teller Machine	3 per machine	teller machine
Bank Teller Lane	2 per lane	teller or window
Restaurant	6 per order box	order box (1)
Carwash Stall, Automatic	5 per stall	stall entrance
Carwash Stall, Manual	3 per stall	stall entrance
Oil Change Shop	3 per service bay	service bay entrance
Pharmacy	4 per lane	machine or window
<b>Notes</b>		
(1) Four of the required stacking spaces shall be located between the order-box and pick-up		

Figure 4.2. Drive-Through Standards



**G) Electric Vehicle Charging Stations.****1) Equipment.**

- a) Electric Vehicle Charging stations that are accessory to all mixed-use, multifamily, and nonresidential uses shall be a level 2 charging capacity.
- b) Electric vehicle charging station equipment shall be protected by a wheel stop, curb, or bollards.
- c) In parking lot applications, all connections of the charging station to electrical utility equipment shall be underground.
- d) All electric vehicle charging station equipment shall comply with the National Fire Protection Association/National Electrical Code and be approved by the Underwriters Laboratory.
- e) All equipment should be made of low-maintenance, durable materials and shall be vandal-proof to the extent possible.
- f) All equipment shall provide a cord management system that minimizes tripping hazards for pedestrians. Charging cords may not cross sidewalks, walkways, or driveways.

**2) Design Considerations.**

- a) Electric vehicle charging station equipment shall be located in a manner that will not obstruct pedestrian walkways. A minimum of three (3) feet of clear area shall be maintained.
- b) Electric vehicle charging stations shall be located to optimize ease of use for all potential users.
- c) Electric vehicle charging station shall provide a safe and clearly delineated area for maneuvering around the vehicle for connecting to the equipment.
- d) A sign indicating that the electric vehicle parking is for use while charging only shall be provided.
- e) All charging stations shall be illuminated. Lighting shall comply with the limitations in Section 5-08.

**3) Electrical Equipment Siting and Screening.**

- a) Electric vehicle charging stations shall be located to minimize the distance to electrical supply equipment.
- b) When locating the electrical supply equipment blind spots and visibility obstructions for drivers and pedestrians shall be considered.
- c) To the extent practical, electrical supply equipment shall be screened by walls, fences, landscaping, or a combination thereof to be effective year-round.

**4) Accessibility.** A minimum of one (1) accessible charging station is required with any installation of electric vehicle charging stations. The accessible charging station shall provide equipment, reach, clear area, route, and other applicable building blocks to comply with the current 2015 Michigan Building code and federal accessibility recommendations.**5) Maintenance.**

- a) The owner of a property on which electric vehicle charging stations are located is responsible for ensuring that the equipment is intact and will not pose a hazard to any visitors to the property. This shall include ensuring that cords are hung to prevent tripping hazards.
- b) All electric vehicle charging station equipment shall be maintained to working condition. Equipment that is no longer functional must be decommissioned within sixty (60) days.

**H) Home Occupations.**

- 1) Home occupations shall be conducted entirely within the primary residential structure or within a detached accessory building on the same lot as the dwelling;
- 2) A Home Occupation shall not alter the exterior appearance of the principal residential structure or change the site's residential character.
- 3) The maximum area devoted to the home occupation shall not exceed twenty (20) percent of the finished floor area of the dwelling.
- 4) Home occupations shall not require more than four (4) client trips or deliveries to the dwelling in any eight-hour period.
- 5) Home occupations shall not require any regular deliveries by semi-trucks.
- 6) Home occupations shall not involve any equipment or operations which create noise, vibration, odors, or other nuisance conditions beyond the lot lines of parcel.
- 7) Home occupations shall not involve any outdoor storage or retailing of supplies, equipment, goods, or merchandise.
- 8) Home occupations shall not involve the storage or use of explosive materials.
- 9) Home occupations shall not employ any individual not residing on-site.
- 10) Home occupations shall not involve any commercial vehicles other than vans or pickups of less than twenty-one (21) feet in length.
- 11) Signage shall be limited to one (1) sign not more than two (2) square feet in area, to be mounted flat to the residential dwelling, and nonilluminated.
- 12) The following occupations shall be prohibited as home occupations:
  - a) Autobody repair;
  - b) Motor Vehicle Service;
  - c) Small engine and equipment repair;
  - d) Animal training, breeding, and boarding;
  - e) Landscape contracting;
  - f) Pickers / junkers.

**I) Keeping of Animals.**

- 1) The keeping of household pets, including dogs, cats, fish, birds, hamsters, and other animals generally regarded as household pets is permitted as an accessory use in any Residential District.
- 2) The keeping of animals not normally considered household pets, including, but not limited to, horses, pigs, sheep, cattle, and poultry is prohibited in all zoning districts.
- 3) Any area where such permitted animals are kept shall be maintained in a safe and sanitary condition.

**J) Outdoor Activity/Operation/Storage.**

- 1) All outdoor storage shall be located in the rear yard only.
- 2) All outdoor storage yards shall be paved or provided with a durable, dustless surface approved by the Planning Commission.
- 3) All outdoor storage shall be enclosed with a solid wall six (6) feet in height consisting of similar materials as the principal building's exterior.
- 4) Screening of outdoor storage yards shall be provided with a Type B Transition yard as specified in Section 5-03(l) and shall be located in front of the required screening wall.
- 5) No flammable or explosive liquids, solids, or gases shall be stored in bulk above ground.

**K) Outdoor Dining.**

- 1) The outdoor dining area shall be located on an approved hard paved surface.
- 2) Outdoor dining areas may utilize a maximum area equal to maximum of twenty (20) percent of the parking spaces required for the operation of the principal use or two thousand (2,000) square feet, whichever is less.
- 3) Outdoor dining areas shall not block a pedestrian walkway or public sidewalk in a manner which reduces the width of that walkway or sidewalk to less than five (5) feet.
- 4) The outdoor dining area shall be at least thirty (30) feet from a lot in a residential district or with a residential use.
- 5) A fence, landscape hedge, or wall with a height of four (4) feet shall be utilized to segregate the outdoor dining area.
- 6) Use of outdoor dining areas shall be limited to the posted operational hours of the associated eating and drinking use.

**L) Outdoor Display/Sale of Merchandise, Permanent.**

- 1) Only goods associated with the principal use of the lot may be displayed or sold on-site.
- 2) The area used for outdoor display and sale of merchandise shall be limited to ten (10) percent of the gross floor area of the principal building.
- 3) The lot area used for parking, display, or storage shall be paved or surfaced with a durable, dustless surface approved by the Planning Commission and shall be graded and drained to dispose of all surface water.
- 4) Access driveways shall be located no less than one-hundred (100) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.
- 5) Any display materials or equipment shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.

**M) Solar Energy Collection System, Canopy.**

- 1) Canopy solar energy collection systems are permitted over any parking area.
- 2) The height of canopy solar energy collection systems shall not exceed the height of the primary building that the parking area serves.
- 3) The minimum height of solar energy collection systems shall allow clearance for emergency and service vehicles.

**N) Solar Energy Collection System, Ground-Mounted.**

- 1) Ground-mounted solar energy collection systems shall be permitted in the rear yard setback only.
- 2) The maximum height of ground-mounted solar energy collection systems shall be five (5) feet in height, measured from the grade at the base of the pole to the highest edge of the system.
- 3) Minimum clearance between the lowest point of the system and the surface on which the system is mounted shall be twelve (12) inches.
- 4) Ground-mounted solar energy collection systems shall be exempt from the lot coverage limits if the ground directly under the solar panel is planted with native plantings and groundcover.
- 5) All parts of the freestanding system shall be set back five (5) feet from the side and rear lot lines and shall not be located in a public utility easement.

**O) Solar Energy Collection System, Roof-Mounted.**

- 1) Roof-mounted solar energy collection systems may be located on any roof face of principal or accessory buildings. Systems should be flush mounted when possible.
- 2) Systems on residential structures shall not extend beyond twelve (12) inches parallel to the roof surface of a pitched roof or flat roof.
- 3) Systems on nonresidential structures shall not extend beyond thirty-six (36) inches parallel to the roof surface of a pitched roof or flat roof.
- 4) Systems on all structures shall not extend above the highest peak of a pitched roof.
- 5) Height is measured from the roof surface on which the system is mounted to the highest edge of the system.
- 6) All materials used for racking, mounts, mounting clamps, and flashings shall be of a color consistent with the color of the roof surface to minimize visibility.

## 4-12. Temporary Use-Specific Standards

### A) Construction-Related.

- 1) Mobile offices, tool sheds, storage trailers, and other construction-related buildings shall be permitted during the time of actual construction provided they are located pursuant to the location requirements for accessory structures in Section 4-11(C) and comply with the County Health Department Sanitary Code.
- 2) Construction related structures shall be removed within twelve (12) working days after the completion or abandonment of construction work on the property.

### B) Food Trucks.

- 1) Food trucks shall locate solely on a space paved with hard-surfaced pavement.
- 2) At least one (1) trash and one (1) recycling receptacle shall be provided for the general public in the vicinity of the food truck. All litter and debris must be removed from site within forty-eight (48) hours after use
- 3) Food trucks and any associated seating or tables shall maintain a minimum ten (10) foot setback from all driveways, public sidewalks, utility boxes and vaults, ramps for barrier-free access, building entrances, and exits or emergency access ways.
- 4) Food trucks may only be located within any required side or rear yard.
- 5) Food trucks shall not occupy or obstruct the use of any off-street parking required in Section 5-01, landscaped area required in Section 5-03, or create a traffic or safety hazard as determined by the Zoning Administrator.
- 6) Permanent connections to water and sanitary sewer mains shall be prohibited.
- 7) Electrical service may be provided only by a temporary service or other connection provided by an electric utility, or by an on-board generator, subject to compliance with all other codes and ordinances.
- 8) Hours of operation for a food truck shall be as recommended by the Planning Commission and approved by City Council through the Special Use Permit as deemed appropriate due to the site's location within the City, adjacent land uses, or other factors determined by the Planning Commission.
- 9) When not in operation, a food cart or truck shall be stored off-site.

### C) Outdoor Display/Sale of Merchandise, Temporary.

- 1) Only goods associated with the principal use of the lot may be displayed or sold on-site.
- 2) The maximum duration of outdoor display or sale of merchandise shall be ninety (90) days per calendar year.
- 3) The lot area used for parking, display, or storage shall be paved or surfaced with a durable, dustless surface approved by the Planning Commission and shall be graded and drained to dispose of all surface water.
- 4) Any display materials or equipment shall not extend into any required yard or occupy any required parking area.



**D) Portable Temporary Storage Container.**

- 1) Only one (1) portable temporary storage container may be located on a lot at a time.
- 2) No portion of any container may extend onto the public right-of-way, including but not limited to sidewalks, parkways, streets, or alleys.
- 3) The portable temporary storage container shall not exceed eight (8) feet in width, twelve (12) feet in length, eight (8) feet in height, and seven-hundred sixty-eight (768) cubic feet.
- 4) The portable temporary storage container must be located on an impervious surface.
- 5) Placement of a portable temporary storage container shall be limited to thirty (30) days per calendar year.
- 6) Every portable temporary storage container must be locked and secured when not being loaded or unloaded.

**E) Seasonal Sales.**

- 1) Seasonal sales shall be permitted for a period not to exceed ninety (90) days per calendar year, unless otherwise approved.
- 2) Seasonal sales areas may use a maximum of twenty (20) percent of the parking spaces required for the operation of the principal use or two thousand (2,000) square feet, whichever is less.
- 3) Seasonal sales areas shall not block pedestrian walkways in a manner which reduces the width of that walkway to less than five (5) feet.

## Article 5. Development Standards

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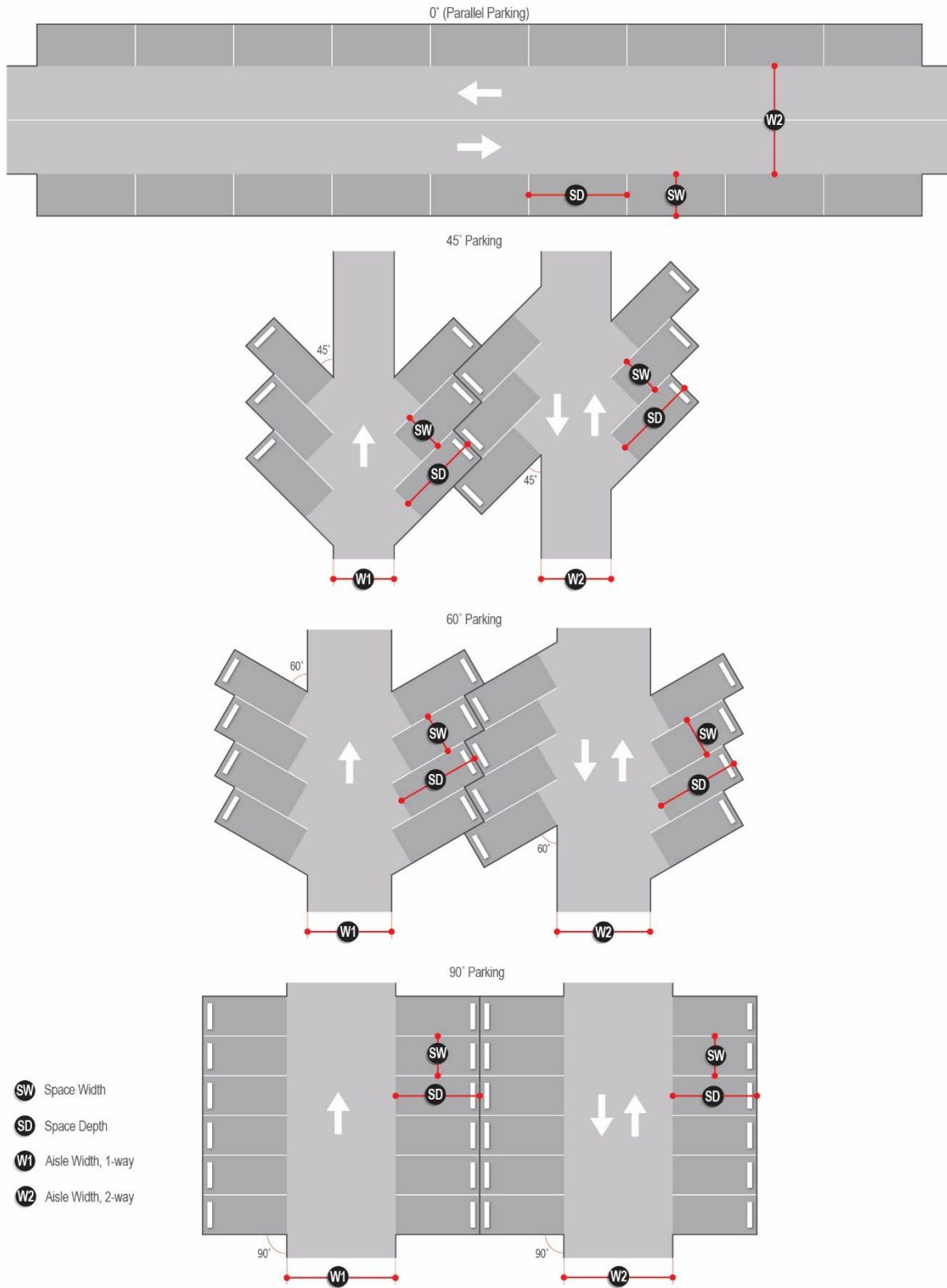
### 5-01. Off-Street Parking and Loading

- A) **Purpose and Applicability.** The purpose of this Section is to permit and regulate off-street parking and loading of motor vehicles in all zoning districts. Off-street parking and loading provisions of this Section shall apply as follows.
- 1) **Change in Intensity of Use.** When the intensity of use of any building, structure or premises shall be increased or expanded through the addition of dwelling units, gross floor area, seating capacity or other units of measurement specified herein for required parking or loading facilities, parking, and loading facilities as required herein shall be provided for such increase or expansion in intensity of use.
  - 2) **Change in Use.** Whenever the existing use of a lot is changed to a new use, parking or loading facilities shall be provided as required for such new use. However, if the said structure was erected prior to the effective date of this Ordinance, additional parking or loading facilities are mandatory only as the required quantity exceeds those for the existing use.
- B) **Location and Design.**
- 1) **Location on Same Lot.** Required off-street parking shall be provided on the same lot or parcel as the use it is intended to serve unless exempted for parking in the CBD Central Business District as specified in Section 5-01(C)(2) or as shared parking as detailed in Section 5-01(F).
  - 2) **Total Area Allocated For Parking.** In no instance shall the total area devoted to driveways and off-street parking areas for single-family detached or duplex dwellings exceed one-third (1/3) of the front-yard area.
  - 3) **Required Setback.** No off-street parking shall be allowed closer than ten (10) feet to a street right-of-way line.
  - 4) **Parking Location Standards.**
    - a) The parking of any vehicle on or in a portion of the lot other than a designated parking area approved for such parking by the Planning Commission shall be prohibited.

- b) The parking of any vehicle on any lawn or landscaped area shall be prohibited. The Planning Commission may require any person or business responsible for converting lawn or landscaped areas to parking, without having received site plan approval, to restore such areas to their original state.
  - c) For all residential uses, the parking of motor homes, boats, trailers, and other large recreational equipment in the front yard for longer than forty-eight (48) hours in any seven-day period shall be prohibited.
- 5) **Conversion of Parking Areas to Other Uses.** Unless the Planning Commission has reviewed and approved the change, any parking area once approved as a required parking area shall not be changed to any other use.
- 6) **Design and Construction Requirements.**
- a) **Surface and Drainage Requirements.** All parking areas shall be surfaced with a durable and dustless surface and shall be properly graded and provided with adequate drainage facilities as approved by the City Engineer.
  - b) **Surface Striping.** All paved parking spaces, aisles, and unloading zones shall be striped or marked. Such striping or other required demarcation shall be maintained permanently in a condition such that easy interpretation of such markings by intended users is possible. In approved unpaved parking areas, spaces shall be defined by wheel chocks, concrete bumpers, or another similar device.
  - c) **Dimensional Standards For Parking Spaces and Aisles.** All on-premises parking areas shall meet the minimum parking space and maneuvering lane standards contained in Table 5-01(B)(6).

Table 5-01(B)(6): Parking Stall and Aisle Dimensional Requirements				
Parking Pattern (Degrees)	Space Width	Space Depth	Aisle Width (2-Way)	Aisle Width (1-Way)
0	9'	22'	18'	12'
45	9'	17'	18'	12'
60	9'	18'	20'	13'
90	9'	18'	24'	20'

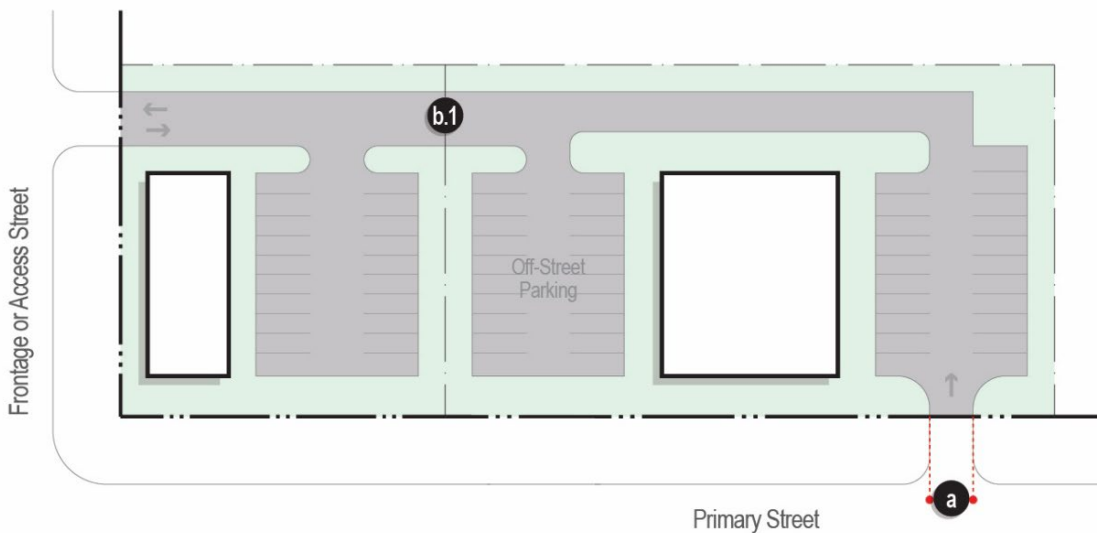
Figure 5.1. Parking Stall and Aisle Dimensional Standards



7) **Access and Cross Access.**

- a) **Access.** Each required parking space shall be accessible from a public street without passing through another required space.
- b) **Cross Access.** To facilitate vehicular access between adjoining developments and to minimize off-street parking area access points along streets and alleys, any development except single-family detached or duplex residential development shall comply with the following standards:
  - (1) Internal vehicular circulation systems shall be designed to allow for vehicular cross-access between the development's off-street parking areas and off-street parking areas in an adjoining non-single-family development, or to the boundary of adjoining vacant land.
  - (2) Required vehicular cross access between the adjoining off-street parking areas shall be provided through the use of a single two-way maneuvering lane or two (2) one-way maneuvering lanes that are sufficiently wide to accommodate traffic by automobiles, service vehicles, loading vehicles, and emergency vehicles.
  - (3) The Zoning Administrator may waive or modify the requirement for vehicular cross access on determining that such cross access is impractical or undesirable because it would require crossing a significant physical barrier or environmentally sensitive area, would create unsafe conditions, or there exists an inability to connect to adjacent property.
  - (4) Easements allowing cross access to and from properties served by a vehicular cross-access, along with agreements defining maintenance responsibilities of property owners, shall be recorded with Berrien County before issuance of a building permit for the development.
  - (5) **Zoning Administrator Waiver.** The Zoning Administrator may waive the cross access required in any instance in which site conditions, including lot configuration, topography, or size, would prohibit its establishment.

**Figure 5.2. Access and Cross Access Standards**



C) **Off-Street Parking Required.**

- 1) **Maximum Quantity of Parking.** In order to minimize excessive areas of pavement which results in adverse aesthetic and environmental impacts and contributes to high rates of storm-water runoff, no off-street parking area shall exceed the minimum parking requirement by more than thirty (30) percent.
- 2) **Off-Street Parking Exemption in the CBD District.** Off-street parking shall not be required for ground-floor nonresidential uses less than two-thousand five-hundred (2,500) square feet located on the ground floor of a building within the CBD District. This exemption shall not apply to residential or upper floor nonresidential uses in the CBD District.
- 3) **Determination of Parking Requirements.** The minimum parking space requirements for all uses shall be those identified in Table 5-01(C)(3).
  - a) **Fractions.** When measurements of the number of required spaces result in a fractional number, the number shall be rounded up to the next higher whole number.
  - b) **Area Measurements.** Unless otherwise expressly stated, all area-based (square footage) parking standards must be computed on the basis of gross floor area (GFA).
  - c) **Unlisted Uses.** For uses not specifically listed in Table 5-01(C)(3), the requirements for on-premises parking shall be determined as follows:
    - (1) The Zoning Administrator may establish the parking requirement by making the determination that the proposed use is similar to a use which is listed in Table 5-01(C)(3), which shall apply.
    - (2) The Planning Commission may establish the parking requirement for the proposed use based on documentation pertaining to the parking demand for that use provided and substantiated by the applicant.
  - d) **Public Street Right-of-Way.** Public street rights-of-way shall not be counted for meeting on-premises parking requirements.
  - e) **Multiple Uses on A Lot.** Where two (2) or more uses are present on the same lot, parking requirements shall be calculated for each use, unless specifically provided otherwise herein.

<b>Table 5-01(C)(3): Off-Street Parking Requirements</b>	
<b>Use</b>	<b>Minimum Parking Requirement</b>
<i>Residential Uses</i>	
Single-family detached dwelling units	2 / dwelling
Duplex	
Multifamily 2-8 units	1.5 / dwelling
Multifamily 8+ units	
Residential, above ground floor retail use	2 / dwelling
Rowhome	1.5 / dwelling
Townhome	
<i>Residential Services</i>	
Adult Day Care Home	2 / dwelling
Adult Foster Care Family Homes	
Adult Foster Care Small Group Homes	
Adult Foster Care Large Group Homes	
Adult Foster Care Congregate Facility	

<b>Table 5-01(C)(3): Off-Street Parking Requirements</b>	
<b>Use</b>	<b>Minimum Parking Requirement</b>
Family Child Care Home	
Group Child Care Home	
Foster Family Homes	
Foster Family Group Homes	
Nursing and Convalescent Home	0.5 / dwelling
Senior Living Facilities	1 / dwelling
<i>Institutional &amp; Place of Assembly Uses</i>	
Cemetery	As determined by the Planning Commission
Educational Facility	
Health Care Facility	0.5 / bed for in-patient facilities; 0.5 / examining or operating room for out-patient facilities
Non-Commercial Place of Assembly	1 / 3 Individuals at Maximum Occupancy
Commercial Place of Assembly	
<i>Lodging &amp; Recreation</i>	
Watercraft fueling station	As determined by the Planning Commission
Campground	1 / camp site
Bed and breakfast	2 + 1 / each additional lodging unit above one
Hotel	1 / lodging unit
Motel	
Municipal or private port or marina	As determined by the Planning Commission
Recreation Area	1 or as determined by Planning Commission
Forestry	
Short-term rental	1 / lodging unit
<i>Retail Uses</i>	
Adult Establishment	1 / 250 sq ft
Cannabis dispensary	
General Retail, 3,000 sqft or less	1 / 200 sq ft
General Retail, more than 3,000 sqft	1 / 250 sq ft
Marine-oriented retail businesses	
Marihuana Retailer	
Multitenant Shopping Center	1 / 500 sq ft
Indoor Agriculture	
Nursery Retail	
Nursery Wholesale	
Wholesale Establishment	
Pawnbroker	1 / 250 sq ft
<i>Service Uses</i>	

<b>Table 5-01(C)(3): Off-Street Parking Requirements</b>	
<b>Use</b>	<b>Minimum Parking Requirement</b>
Animal Boarding Facility/Kennel and/or Veterinary Service	1 / 300 sq ft
General Service, 3,000 sqft or less	1 / 200 sq ft
General Service, more than 3,000 sqft	1 / 250 sq ft
Financial Institution	1 / 300 sq ft
Funeral Home	1 / 300 sq ft
Massage Service	1 / 250 sq ft
Office, above ground floor only	1 / 250 sq ft
Office, ground floor 3,000 sqft or less	
Office, ground floor more than 3,000 sqft	
Office Complex/Business Park	1 / 300 sq ft
<b><i>Eating and Drinking Uses</i></b>	
Bar/Tavern	1 / 150 sq ft
Brewery/Winery/Distillery Tasting Room	
Food Truck Court	
Micro Brewery/Winery/Distillery	
Restaurant, Delivery/Carry Out	
Restaurant, Sit Down	
<b><i>Vehicle Related Uses</i></b>	
Auto, Recreational Vehicle, or Watercraft Sales/Rental	1 / stall
Carwash	
Major Automotive Repair	1 / 300 sq ft
Minor Automotive Repair	1 / stall
Vehicle Fuel Sales	1 / 250 sqft
<b><i>Industrial Uses</i></b>	
Artisan Manufacturing	1 / 500 sq ft of office or sales area + 1 / 1,000 sq ft of other floor area
Brewery/Winery/Distillery	
Composting/ Recycling Facility	
Distribution Facility	
Equipment Rental, Sales, and Service	
Extractive Industry	
Wireless Communication Tower	
Light Industry	
Salvage Yard	
Self-Service Storage Facility	
Solid Waste Facility/ Solid Waste Transfer Station	
Storage Yard	
Warehouse	
<b><i>Utility &amp; Transportation Uses</i></b>	
Airport/ Heliport	As determined by the Planning Commission



Table 5-01(C)(3): Off-Street Parking Requirements	
Use	Minimum Parking Requirement
Helistop	
Loading Areas, Parking Areas, and Landing Strips As a Principal Use	
Railroad Use	
Telecommunications Tower	
Waterborne Transportation Uses	
<i>Accessory Uses</i>	
Accessory Retail	1 / 250 sq ft
Accessory Dwelling Unit	1 / dwelling
Accessory Structure, Ground-Mounted	n/a
Accessory Structure, Rooftop	
Keeping of Animals	
Home Occupations	
Drive Through	
Donation Drop Box	
Outdoor Activity/Operation/Storage	
Outdoor Dining	
Outdoor Display/Sale of Merchandise, Permanent	
Solar Energy Collection System, Canopy	
Solar Energy Collection System, Ground-Mounted	
Solar Energy Collection System, Roof-Mounted	
<i>Temporary Uses</i>	
Construction Related	As required through Temporary Use Permit process
Farmers Market	
Food Truck	
Outdoor Display/Sale of Merchandise, Temporary	
Portable Temporary Storage Container	
Seasonal Sales	

F) **Shared Parking**

- 1) **Intent and Purpose.** Shared parking allowed in this subsection is encouraged as a means of conserving land resources, reducing stormwater runoff, reducing the heat island effect caused by large, paved areas, and improving community appearance.
- 2) **Location.** All shared off-street parking allowed under this subsection shall be located within three hundred (300) feet of the principal entrance of each individual use to be served unless otherwise approved by the Planning Commission.
- 3) **General Requirements.**
  - a) The number of parking spaces provided shall not be less than the sum of the separate requirements for each such building or use. Where a mix of two (2) or more land uses creates staggered peak periods of parking demand, shared parking agreements that reduce the total amount of required off-street parking may be approved up to a maximum twenty-five (25) percent of the quantity required in Table 5-01(C)(3) for each individual use.

- b) Required accessible parking spaces for persons with disabilities may not be shared and shall be located on-site.
  - c) Adjacent lots that are subject to a shared parking agreement shall be interconnected by the provision of a cross-access easement for vehicular and pedestrian passage.
- 4) **Standards.** Uses that create staggered peak periods of parking demand shall be between a daytime and an evening or weekend uses as follows.
- a) For purposes of this Section, the following uses are considered daytime uses:
    - (1) Service Uses,
    - (2) Retail Uses,
    - (3) Institutional and Place of Assembly Uses
    - (4) Industrial Uses, and
    - (5) Other similar primarily daytime uses, as determined by the Planning Commission.
  - b) For purposes of this Section, the following uses are considered evening or weekend uses:
    - (1) Recreation, Amusement, and Lodging Uses,
    - (2) Eating and Drinking Uses, and
    - (3) Other similar primarily nighttime or weekend uses, as determined by the Planning Commission.
- 5) An applicant may also request a reduction for any two (2) daytime or any two (2) evening or weekend uses when the hours of peak parking do not overlap, which shall be approved by the Zoning Administrator.
- 6) **Requirements.**
- a) The applicant shall provide a parking study to indicate that there is not a substantial conflict in the principal hours of operation of the uses to be served.
  - b) An applicant shall provide a legal agreement signed by the property owners indicating the quantity and location of parking to be shared between any two (2) or more uses.
- G) **Accessible Parking.** In all off-street parking facilities accessible parking spaces shall be provided. The number of accessible parking spaces shall be counted toward the total number of required parking spaces. The quantity, location, design, and markings shall be in accordance with the requirements of the latest edition of the Americans With Disabilities Act as amended.
- H) **Deferred Parking.** An applicant may request that a portion of the required parking be deferred from being constructed in cases where there is an excess of the quantity required for their business. The deferral shall be approved by the Planning Commission subject to the following provisions.
- 1) Parking may not be deferred below the minimum standard of one-half (0.5) space per one-thousand (1,000) square feet of gross floor-area for industrial uses or eighty (80) percent of the required parking for other nonresidential uses.
  - 2) The applicant shall show that the deferred portion of the parking is possible to construct on the site by showing it on the site plan; and shall guarantee the availability of such area for future parking through a recorded deed restriction on the property, a copy of which shall be provided to the Zoning Administrator prior to commencing construction on the site.
  - 3) The City shall retain the right to revoke the deferral at any time if the Planning Commission determines that the amount of parking is insufficient. In cases of revocation, the applicant shall construct the deferred portion of the parking within ninety (90) days of being directed to do so by the City.

I) **Watercraft and Recreational Vehicle Parking.**

- 1) **Maximum Size.** Only watercraft or recreational vehicles thirty (30) feet or less in length shall be allowed. The parking of larger watercraft is prohibited.
- 2) **Number Allowed.** A total of three (3) watercraft or recreational vehicles are allowed on a lot. Vehicles used in conjunction with one another such as a boat mounted on a trailer shall be considered one (1) recreational vehicle. The size and number of recreational vehicles allowed shall be as specified below.
  - a) Only one (1) watercraft or recreational vehicles longer than twelve (12) feet is allowed.
  - b) All other watercraft or recreational vehicles shall be twelve (12) feet or less in length.
- 3) **Location.**
  - a) Watercraft and recreational vehicles not stored in a garage shall be stored or parked as follows:
    - (1) In a rear yard or side yard, provided that the minimum required side yard or rear yard shall be maintained from the vehicle to the side or rear lot line, as the case may be.
    - (2) One (1) monohull watercraft eighteen (18) feet or less in length may be parked in the front yard but shall be twenty (20) feet from the front lot line and shall meet required minimum side setbacks.
- 4) The parking of watercraft and recreational vehicles for more than forty-eight (48) hours shall be limited only to vehicles owned by the occupants of the residence.
- 5) Recreational vehicles shall not have fixed connections to electricity, water, gas, or sanitary sewer and shall not be used for living or housekeeping purposes.
- 6) All recreational vehicles shall be fully operable, kept in good repair, and shall display the current license plate or registration required by the State of Michigan.

J) **Off-Street Loading Requirements.**

- 1) **Purpose.** The purpose of this Section is to prevent congestion of public rights-of-way and private lots to promote the safety and general welfare of the public by establishing minimum requirements for the provision of loading facilities on various sites.
- 2) **Applicability.** Any use which has a gross floor area of six thousand (6,000) square feet or more, and which requires deliveries or makes shipments, shall provide off-street loading facilities in accordance with the regulations of this Section.
- 3) **Location.** All loading berths shall be located at least twenty-five (25) feet from the intersection of two (2) street right-of-way lines. All loading berths shall be in the interior side or rear yard only and shall be oriented away from the primary road unless approved as a Special Use due to site conditions. All loading areas shall be located on the private lot and shall not be located within, or to interfere with, any public right-of-way, off-street parking area, or pedestrian circulation area.
- 4) **Size of Off-Street Loading Area.** Adequate space for standing, turning, loading, and unloading services shall be provided in a manner that does not interfere with required off-street parking areas, with pedestrian circulation areas, and with the public use of streets or alleys.
- 5) **Access to Off-Street Loading Area.** Each loading berth shall be located to facilitate access to a public street or alley and shall not interfere with other vehicular or pedestrian traffic and shall not interfere with the function of parking areas. In no instance shall loading areas rely on backing movements into public rights-of-way. Users of shared loading areas shall coordinate loading activities to minimize off-site impacts.

- 6) **Surfacing and Marking.** All required loading areas shall be paved and maintained in a dust-free condition at all times. Said surface shall be marked in a manner that demarcates the loading areas.
- 7) **Use of Off-Street Loading Areas.** The use of all off-street loading areas shall be limited to the loading and unloading of vehicles. Said area shall not be used to provide minimum required parking spaces.
- 8) **Lighting.** Lighting used to illuminate an off-street loading area, if any, shall meet all requirements for outdoor lighting as detailed in Section 5-08.
- 9) **Required Loading Spaces.** The number of loading spaces provided shall be determined by the developer and shall provide for adequate space for standing, turning, loading, and unloading services. These spaces shall be provided in a manner that does not interfere with internal site circulation, ingress or egress to the site, access to or use of required off-street parking areas and pedestrian circulation areas, or the public use of streets or alleys.

K) **Pedestrian Circulation Standards.**

- 1) Off-street parking areas serving multifamily residential, mixed-use and nonresidential development and consisting of twenty (20) or more off-street parking spaces shall provide on-site circulation systems exclusively for the use of pedestrians and other non-motorists to navigate the site. Pedestrian circulation systems are encouraged in off-street parking areas with fewer than twenty (20) spaces but are not required.
- 2) The on-site pedestrian circulation system shall comply with all ADA standards.
- 3) The on-site pedestrian circulation system shall be marked and shall connect all buildings on the site and shall provide connections to required parking spaces.
- 4) The on-site pedestrian circulation system must connect building entrances to adjacent public rights-of-way when public sidewalks are either existing or planned. The on-site pedestrian circulation system shall form a direct route between the building entrance and adjacent public right-of-way that does not require significant out-of-direction travel.
- 5) The on-site pedestrian circulation system shall provide at least one (1) connection to all adjacent properties along a shared street frontage. Connections must provide access to existing walkways on adjacent properties, or to the likely future location of walkways on those properties.
  - a) The Zoning Administrator may waive this requirement upon determining that no walkway exists and a future walkway is unlikely to exist, or such connection would create a safety hazard.

**L) Off-Street Bicycle Parking.****1) Location.**

- a) Required bicycle parking shall be provided on the same lot as the use it is intended to serve.
- b) Bicycle parking spaces shall be adequately lit and located such that they are highly visible from the street and/or building entrance(s) from points where bicyclists approach the site.
- c) The location of bicycle parking shall not conflict with pedestrian and/or vehicle circulation.
- d) Required bicycle parking shall be sited within fifty (50) feet of a building's main entrance. If provided indoors, bicycle parking shall be located within a common area designated for secure bicycle storage.
- e) Bicycle parking adjacent to a pedestrian walkway shall be sited to ensure that a minimum five (5) foot walkway clearance is maintained.

**2) Design Criteria.** All bicycle parking facilities shall be designed in accordance with standards established by the National Association of City Transportation Officials.**3) Dimensional Standards.**

- a) Each bicycle parking space shall be a minimum of six (6) feet in length.
- b) Bicycle racks shall be located at least three (3) feet in all directions from any obstruction, including but not limited to other bicycle racks, walls, doors, posts, columns, or landscaping.
- c) A minimum vertical clearance of seven (7) feet shall be maintained above all bicycle parking facilities.

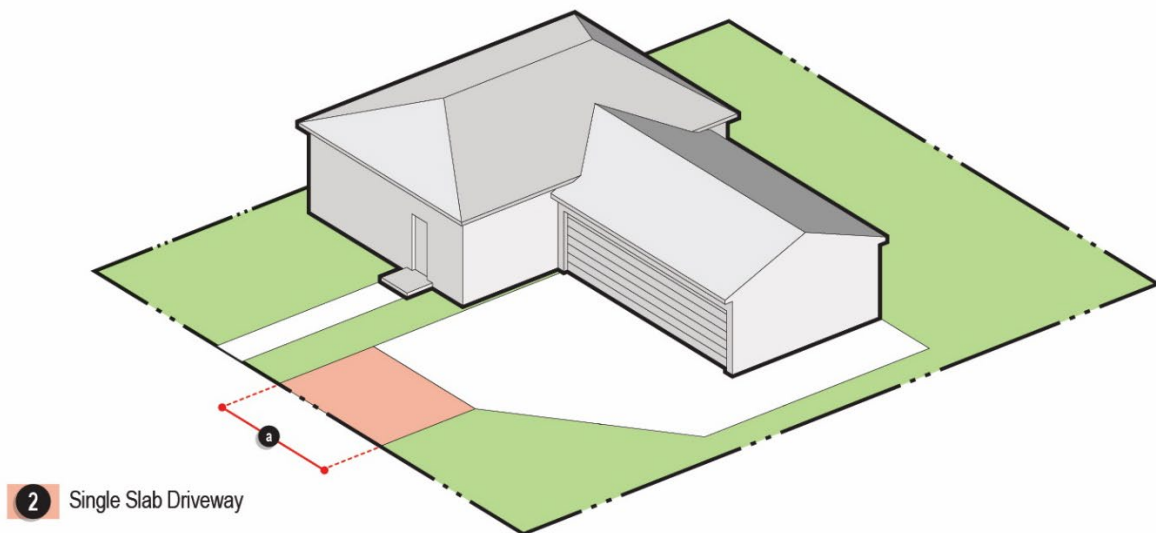
**4) Off-Street Bicycle Parking Required.**

- a) Bicycle parking as specified in this subsection shall be required for all multifamily residential, mixed-use, and nonresidential development. Vehicle-related uses as defined in this Ordinance shall be exempt from the requirement.
- b) The number of required bicycle parking spaces shall be equal to five (5) percent of the off-street vehicle parking spaces provided, up to ten (10) required bicycle parking spaces.
- c) When the required amount of bicycle parking is less than two (2) spaces, the use shall provide a minimum of two (2) spaces in a bicycle parking area.
- d) Off-street bicycle parking spaces provided on vertical racks mounted on a building wall shall not count toward the minimum quantity required.

## 5-02. Driveways

- A) **Single Family Detached and Duplex Driveway Standards.** A single slab or ribbon driveway from the property line to legal, on-site parking shall be provided and shall be provided for all single-family detached and duplex uses in conformance with the following criteria.
- 1) **Limit of One.** One (1) single slab or ribbon driveway and one (1) curb cut shall be permitted per fifty (50) feet of lot frontage.
  - 2) **Single-Slab Driveway Design Standards.**
    - a) Single-slab driveways shall not exceed twenty (20) feet in width at the property line.
    - b) Single-slab driveways shall be surfaced with an all-weather, dustless concrete material which may include decorative concrete, patterned concrete, exposed aggregate concrete, concrete pavers, permeable paver blocks, or similar materials approved by the City Engineer.

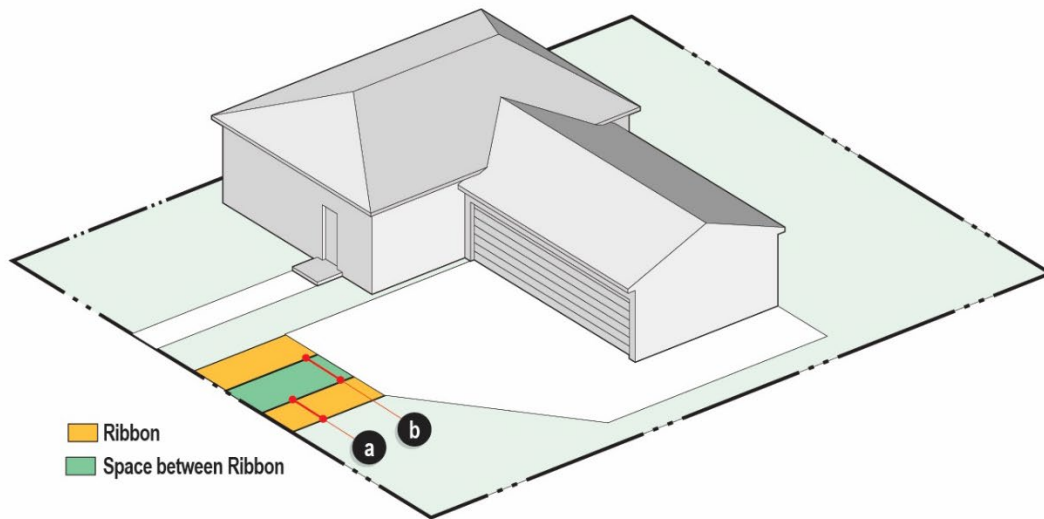
**Figure 5.3. Single-Slab Driveway Standards**



3) **Ribbon Driveway Design Standards.**

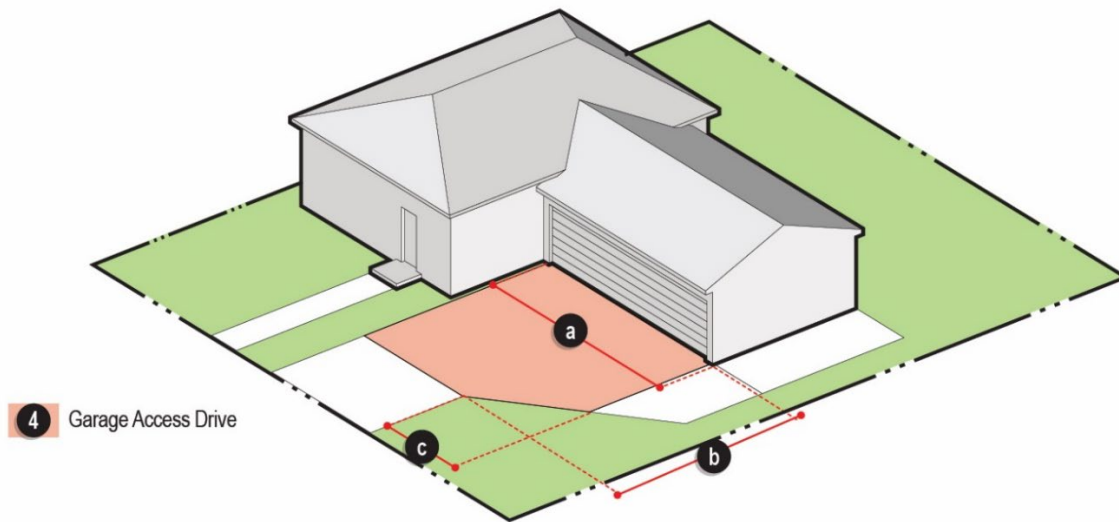
- a) Ribbons shall be a minimum of two (2) feet wide and a maximum of three (3) feet wide.
- b) Ribbons shall be a minimum of three (3) feet apart measured from their nearest edges. The space between ribbons shall be planted in turf grass or other ground cover used in the front yard.
- c) Single-slab driveways shall be surfaced with an all-weather, dustless concrete material which may include decorative concrete, patterned concrete, exposed aggregate concrete, concrete pavers, permeable paver blocks, or similar materials approved by the City Engineer.

**Figure 5.4. Ribbon Driveway Standards**



- 4) **Garage Access Drive.** A garage access drive is permitted and shall meet the standards below.
- a) **Width.** The maximum width of a garage access drive shall be the width of the garage, as measured from the garage door(s) plus an additional three (3) feet on either side of the garage door(s).
  - b) **Length.** The maximum length of a garage access drive shall be sixteen (16) feet from the garage doors.
  - c) **Taper.** The garage access drive shall taper, within ten (10) feet, back to the maximum driveway width.
  - d) **Surfacing.** Garage access driveways shall be surfaced with an all-weather, dustless concrete material which may include decorative concrete, patterned concrete, exposed aggregate concrete, concrete pavers, permeable paver blocks, or similar materials approved by the City Engineer.

**Figure 5.5. Garage Access Drive Standards**

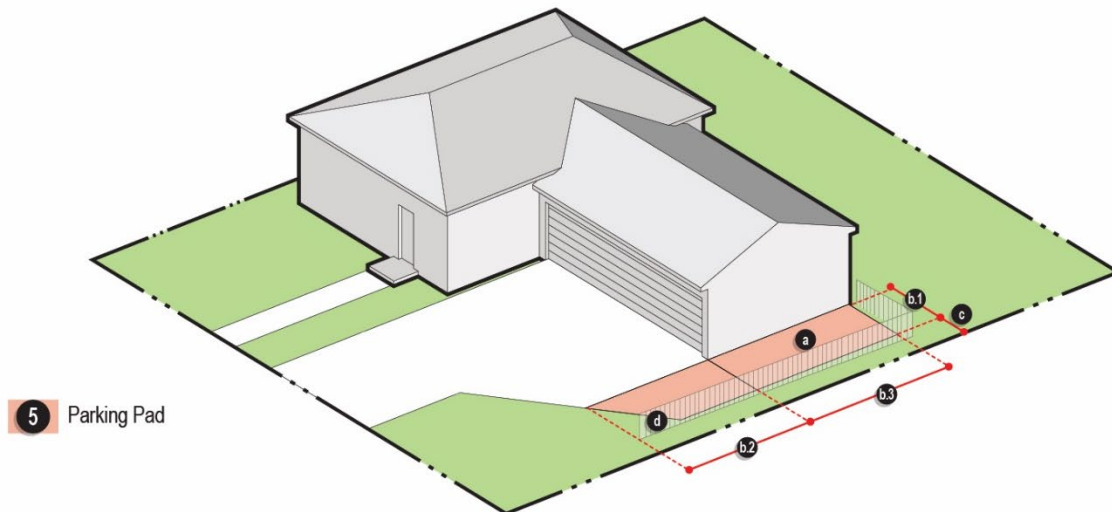




5) **Parking Pad.**

- a) **Limit of One.** A garage access drive may be extended to include one (1) parking pad.
- b) **Configuration.**
  - (1) A parking pad shall be a minimum of nine (9) feet and a maximum of ten (10) feet in width.
  - (2) The portion of the parking pad adjacent to the garage access drive shall have a maximum length of twenty (20) feet, as measured from the front façade line of the garage. A minimum seven (7) foot taper shall be included in the twenty (20) foot maximum.
  - (3) The portion of the parking pad adjacent to the garage shall have a maximum length equal to the depth of the garage, as measured from the front façade line of the garage.
- c) **Location.** The parking pad shall be set back a minimum of five (5) feet from any side property line.
- d) **Screening.** A fully opaque fence with a minimum height of six (6) feet shall be constructed in the side yard abutting the parking pad.
- e) **Surfacing.** A parking pad may be surfaced with asphalt, concrete, grass, gravel, or a permeable paving system. The first half (1/2) inch of runoff over the entire surface shall be treated with green infrastructure if the parking pad is surfaced with asphalt or concrete.

**Figure 5.6. Parking Pad Standards**



**B) Townhouse, Multifamily Residential, Mixed-Use, and Nonresidential Driveway Standards.**

**1) Location and Surfacing.**

- a) No lot shall have multiple driveways for purposes of vehicular ingress and egress without a minimum of two hundred (200) foot separation between such curb cuts along a street, unless otherwise approved by the City Engineer.
- b) Driveways shall be surfaced with an all-weather, dustless concrete material which may include decorative concrete, patterned concrete, exposed aggregate concrete, concrete pavers, permeable paver blocks, or similar materials approved by the City Engineer.

**2) Townhouse Driveway Standards.**

- a) One-way driveways for townhouse uses shall be a minimum of nine (9) feet wide and a maximum of twenty (20) feet wide at the property line.
- b) Two-way driveways for townhouse uses shall be a minimum of twenty (20) feet and a maximum of thirty-three (33) feet in width at the property line.

**3) Multifamily and Nonresidential Driveway Standards.**

- a) One-way driveways for multifamily and nonresidential uses shall be a minimum of nine (9) feet wide and a maximum of thirty-two-(32) feet wide at the property line.
- b) Two-way driveways for multifamily and nonresidential uses shall be a minimum of twenty (20) feet wide and a maximum of thirty-six (36) feet wide at the property line.

**5-03. Landscaping**

**A) Applicability.**

- 1) Landscape improvements required by this Section shall apply to all new nonresidential, mixed use, and multifamily development and substantial reinvestment or redevelopment the cost of which comprises fifty (50) percent or greater of the site's market value, unless otherwise required in this Section.
- 2) Landscape improvements required by this Section shall not be required for changes of use or minor site alterations the cost of which comprise less than fifty (50) percent of the market value of the subject property.
- 3) Landscape improvements required by this Section shall consist of living vegetation in a combination of plants, trees, shrubs, native grasses, perennials, and/or groundcover.

**B) General Provisions.**

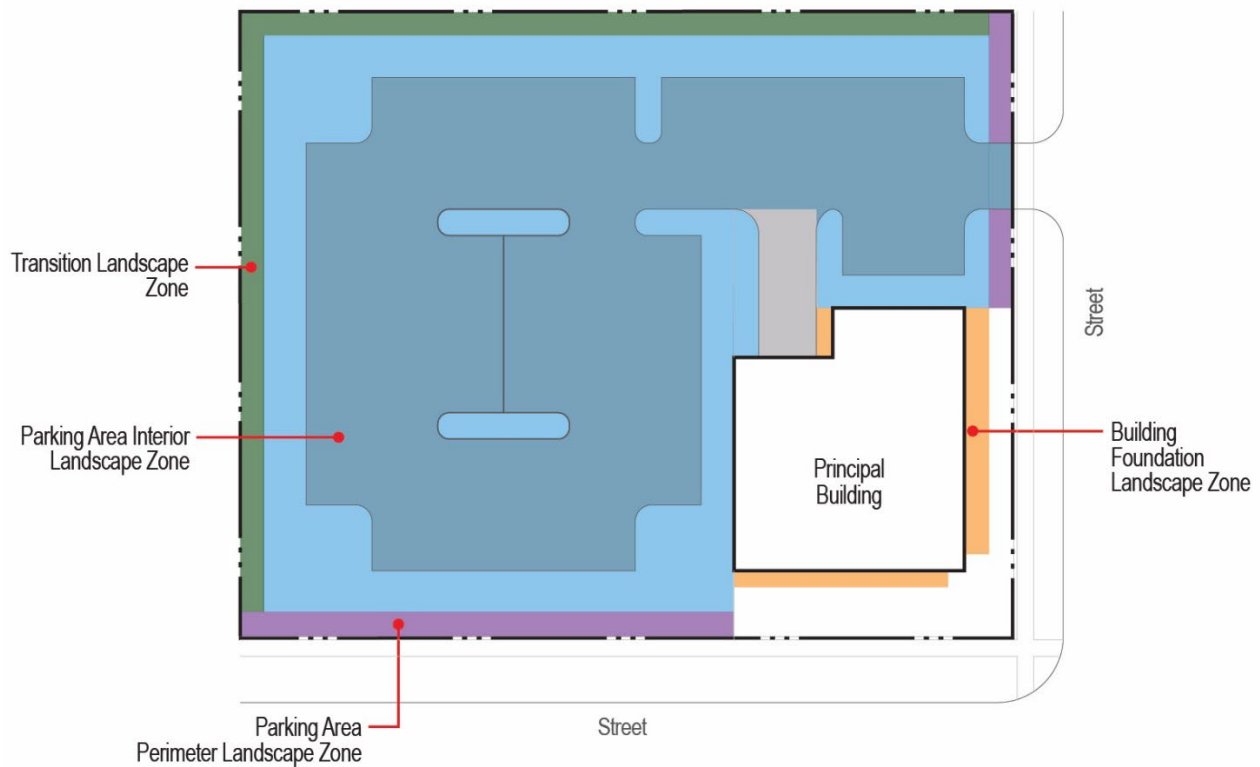
- 1) Unless otherwise stated in this section, all size specifications for plant materials shall be based upon the time of planting. When caliper is specified for tree planting, the caliper of the tree trunk shall be measured at average breast height.
- 2) Any plant materials used to meet the requirements of this section shall not include any plant material identified as an invasive species by the Michigan Department of Natural Resources.

C) **Planting Types.**

- 1) **Canopy Trees.** A woody plant (deciduous or evergreen) having not less than a two and one-half (2.5) inch caliper with single central axis which typically reaches a mature height of not less than forty (40) feet and a mature spread of not less than fifteen (15) feet.
- 2) **Understory Trees.** A woody plant having not less than a one and one-half (1.5) inch caliper, or six (6) feet tall for multiple stem species, that normally attains a mature height of at least fifteen (15) feet.
- 3) **Evergreen Trees.** A tree having foliage that persists and remains green throughout the year and has a height of not less than six (6) feet at installation and maturing to a height of not less than twenty (20) feet.
- 4) **Shrubs.** A woody plant (deciduous or evergreen) of low to medium height characterized by multiple stems continuous from its base and having a height of not less than two (2) feet, unless classified as a shrub by the State of Michigan.
- 5) **Native Grasses.** Grasses that are native to the State of Michigan, not including noxious weeds.
- 6) **Herbaceous Perennials.** Plants with non-woody stems whose above-ground growth largely or totally dies back during winter months but whose underground plant parts (roots, bulbs, etc.) survive.
- 7) **Groundcover.** Spreading herbaceous plants, other than turf grass, or prostrate shrubs, or woody vines normally reaching an average maximum height of eighteen (18) inches at maturity.

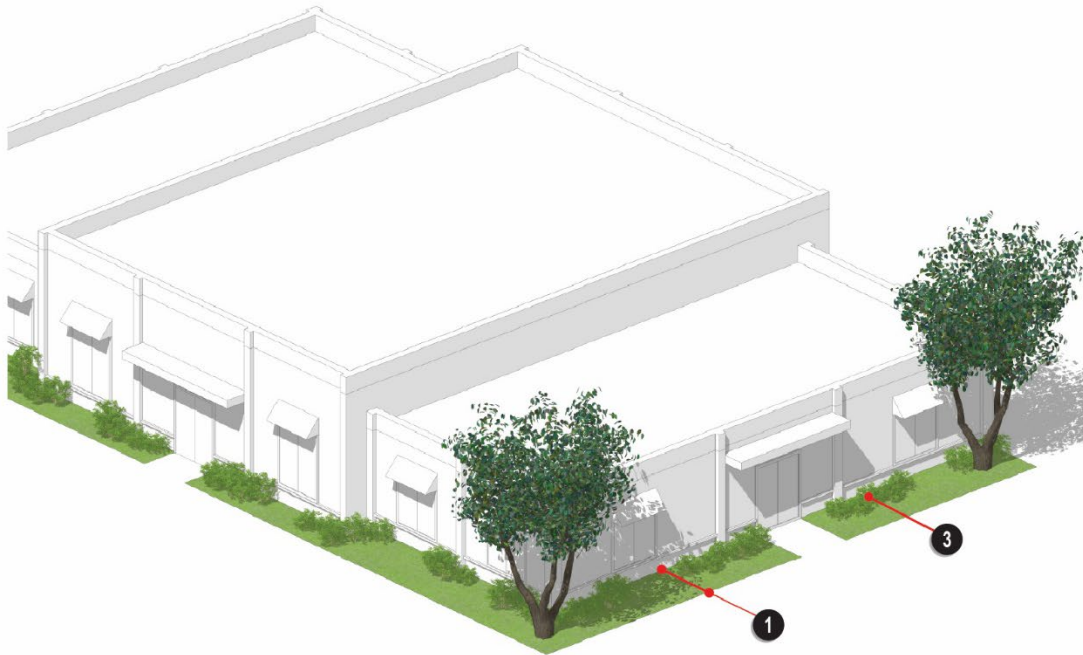
D) **Required Landscape Zones.** Figure 5.7 illustrates the location of the required landscape zones as detailed in the following sections. The Zoning Administrator may approve exceptions to the required landscape zone.

**Figure 5.7. Required Landscape Zones**



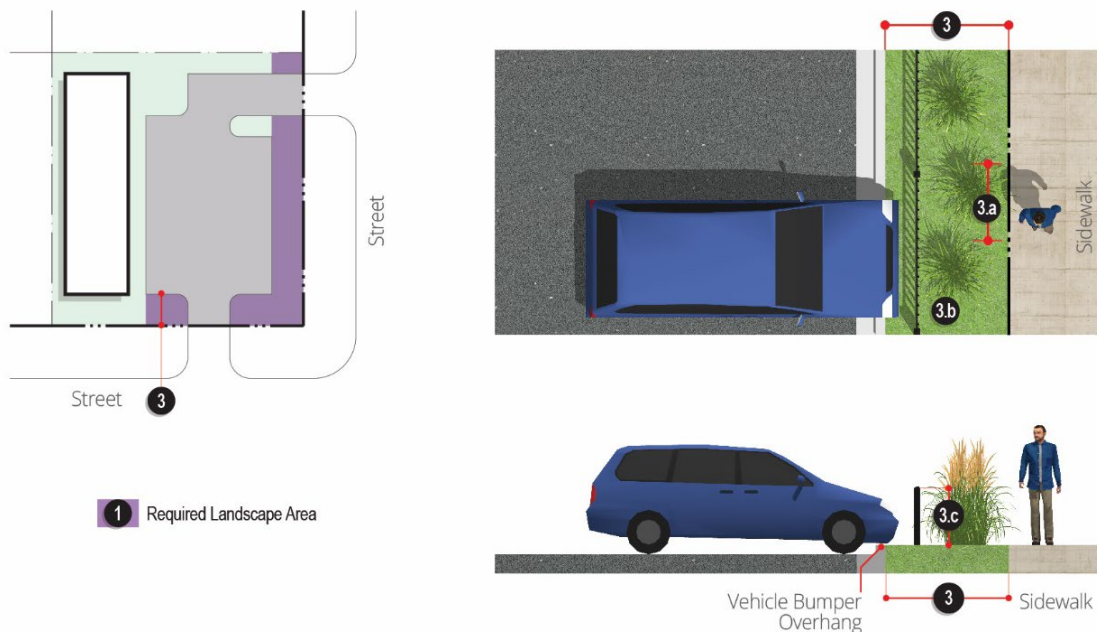
- E) **Building Foundation Landscape Zone.** All nonresidential, mixed use, and multifamily development where a front yard setback is required, with the exception of food processing facilities regulated by the United States Food and Drug Administration, shall include landscape located at the building foundation as required by this Section. Landscape required by this Section shall be in addition to landscape required under other sections of this Ordinance. It is the objective of this Section to provide a softening effect at the base of buildings.
- 1) Applicable development is required to maintain a building foundation area at front and exterior side yards with a minimum width of seven (7) feet.
  - 2) Foundation plantings shall be designed to supplement buffer yard plantings to frame important views, while visually softening long expanses of walls.
  - 3) Foundation plantings shall be installed across forty (40) percent of the length of the façade of the building.
  - 4) Foundation plantings may include trees, shrubs, native grasses, and groundcover.
  - 5) Where the area between the building and parking lot or street curb is entirely paved for pedestrian use, landscaping may consist of canopy trees planted in structural soils beneath tree grates or permeable pavement, at the rate of one (1) tree per fifty (50) linear feet of building façade. Minimum structural soil volume shall be six hundred (600) cubic feet.
  - 6) Above-ground stormwater planter boxes along building facades may be substituted for foundation plantings.
  - 7) Required foundation plantings may be installed between parking lots and the building but shall be installed within twelve (12) feet of the building façade.

**Figure 5.8. Building Foundation Landscape Zone Standards**



- F) **Parking Area Perimeter Landscape Zone.** Landscape required by this Section shall be in addition to landscape required under other Sections of this Zoning Ordinance. It is the objective of this Section to provide screening between off-street parking areas and rights-of-way, and to provide for the integration of stormwater management with required landscaping.
- 1) **Location.** All off-street parking areas which abut a public or private right-of-way, excluding alleys, shall include landscape and trees as required by this Section located between the back of curb of the off-street parking area and the right-of-way.
  - 2) **Applicability.** The parking lot perimeter landscape regulations of this Section apply to the following:
    - a) The construction or installation of any new off-street parking area, and
    - b) The expansion of any existing off-street parking area, in which case the requirements of this Section apply only to the expanded area.
  - 3) **Requirements.** Perimeter landscape shall be established along the edge of the off-street parking area and have a minimum width of seven (7) feet as measured from the back of curb of the off-street parking area, to accommodate vehicle bumper overhang and ensure planting areas that are adequate in size.
    - a) One (1) shrub or native grasses the height of which shall not be less than three (3) feet nor greater than five (5) feet, shall be planted for every four (4) feet of landscape area length when no masonry wall or fence is provided as described in this subsection, or when such wall or fence is not entirely opaque. One (1) shrub or native grass shall be planted every eight (8) feet when an opaque masonry wall or fence is provided as detailed in this subsection. Such plantings may be clustered or spaced at even intervals as deemed appropriate by the Planning Commission.
    - b) Landscaped areas outside of shrubs/native grasses and tree masses shall be planted in live groundcover.
    - c) A low masonry wall or fence the height of which provides effective screening to a maximum height of three (3) feet may be used in conjunction with required landscaping as detailed above. Plant materials shall be installed between the sidewalk and the fence or wall to provide a softening effect.

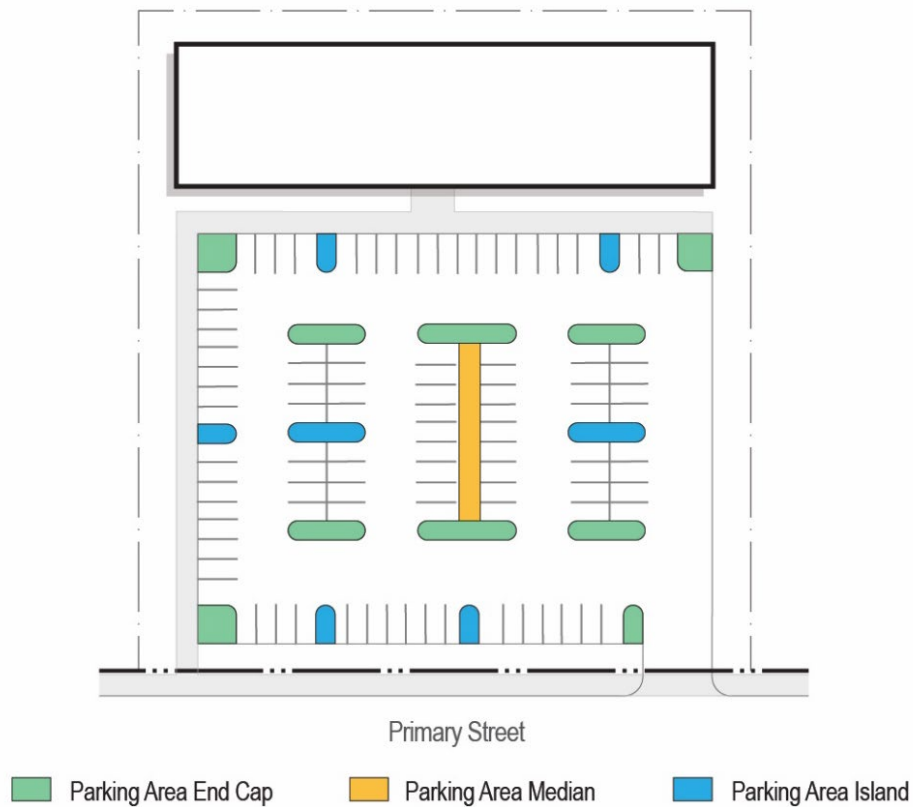
**Figure 5.9. Parking Area Perimeter Landscape Zone**



- G) **Parking Area Interior Landscape Zone.** All off-street parking areas shall include landscape and trees located within the off-street parking area as required by this Section. Trees and landscape required by this Section shall be in addition to trees and landscape required under other Sections of this Zoning Ordinance. It is the objective of this Section to provide shade within parking areas, break up large expanses of parking area pavement, support stormwater management where appropriate, improve the appearance of parking lots as viewed from rights-of-way, and provide a safe pedestrian environment.
- 1) **Applicability.** The parking area interior landscape zone regulations of this Section apply to the following:
    - a) The construction or installation of any new off-street parking lot containing fifteen (15) or more parking spaces, and
    - b) The expansion of any existing off-street parking area if the expansion would result in fifteen (15) or more new parking spaces, in which case the requirements of this Section apply only to the expanded area.
  - 2) **Requirements.** The level of parking lot interior landscape required shall depend on the size and location of the off-street parking area as follows.
    - a) Off-street parking areas consisting of fifteen (15) or more continuous spaces shall be required to provide full interior landscaping amenities as specified in subsections (3) through (6) below.
    - b) Off-street parking areas consisting of fewer than fifteen (15) continuous spaces that are located to the front or side of the principal building shall be required to terminate all rows of parking with a parking area end cap, as detailed in subsection (4), but shall otherwise be exempt from the other requirements of subsections (3) through (6) below.
    - c) Off-street parking areas consisting of fewer than fifteen (15) continuous spaces that are located in the rear of the principal building shall be exempt from the requirements of this section.

- 3) **Amount.** The amount of required parking area interior landscape shall be determined by the yard in which the off-street parking area is located as detailed below.
  - a) **Off-Street Parking Areas in Front or Side of Principal Buildings.**
    - (1) **Parking Area End Caps.** A parking area end cap shall be located at the end of any bay of parking bordered by a drive aisle, public or private street, or pedestrian circulation system.
    - (2) **Parking Area Median Amount Requirement.** Parking area medians shall be placed between every third bay of parking.
    - (3) **Parking Area Island Amount Requirement.** Parking area islands shall be located on parking bays which are not required to have parking area medians. Parking area islands shall be spaced not more than one hundred thirty-five (135) feet or more than fifteen (15) continuous spaces apart.

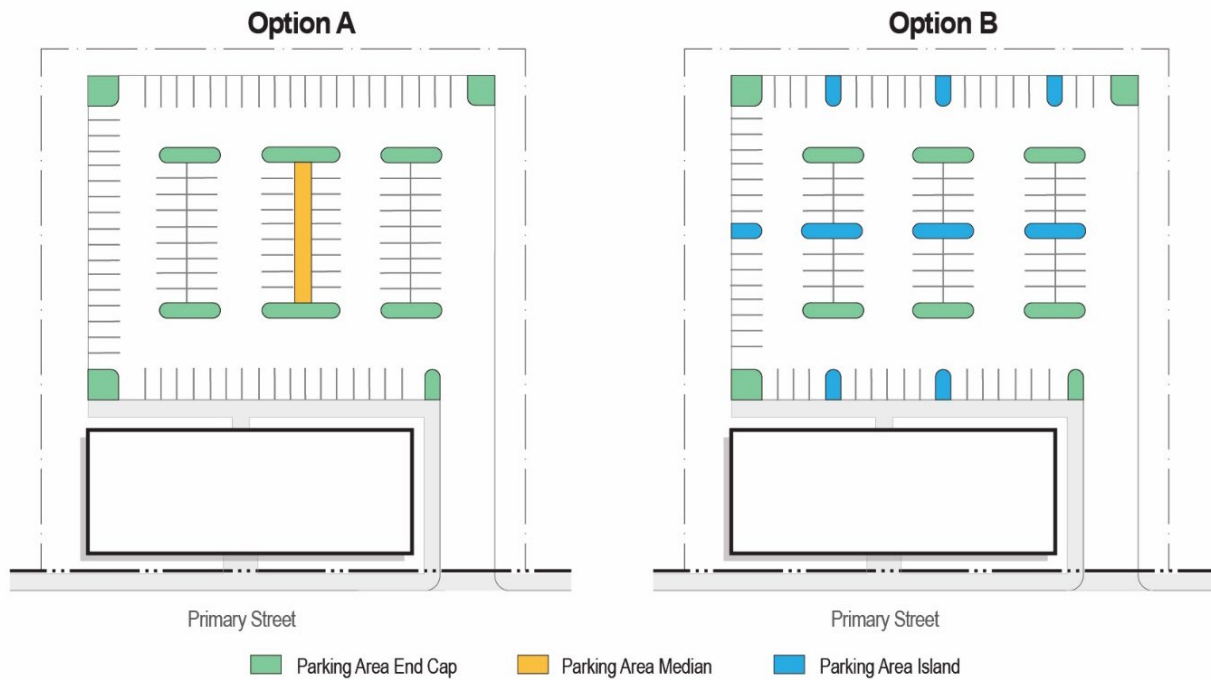
**Figure 5.10. Off-Street Parking Area Landscape Standards in Front or Side of Building**



b) **Off-Street Parking Areas in Rear of Principal Building.**

- (1) **Parking Area End Caps.** A parking area end cap shall be located at the end of any bay of parking bordered by a drive aisle, public or private street, or pedestrian circulation system.
- (2) **Parking Area Median or Parking Area Island Amount Requirement.** The developer may choose to install either parking area medians or parking area islands. If the developer chooses to install parking area medians, they shall be placed between every third bay of parking. If the developer chooses to install parking area islands, they shall be located on parking bays which are not required to have parking area medians. Parking area islands shall be spaced not more than one hundred thirty-five (135) feet or more than fifteen (15) continuous spaces apart.

**Figure 5.11. Off-Street Parking Area Landscape Standards in Rear of Building**

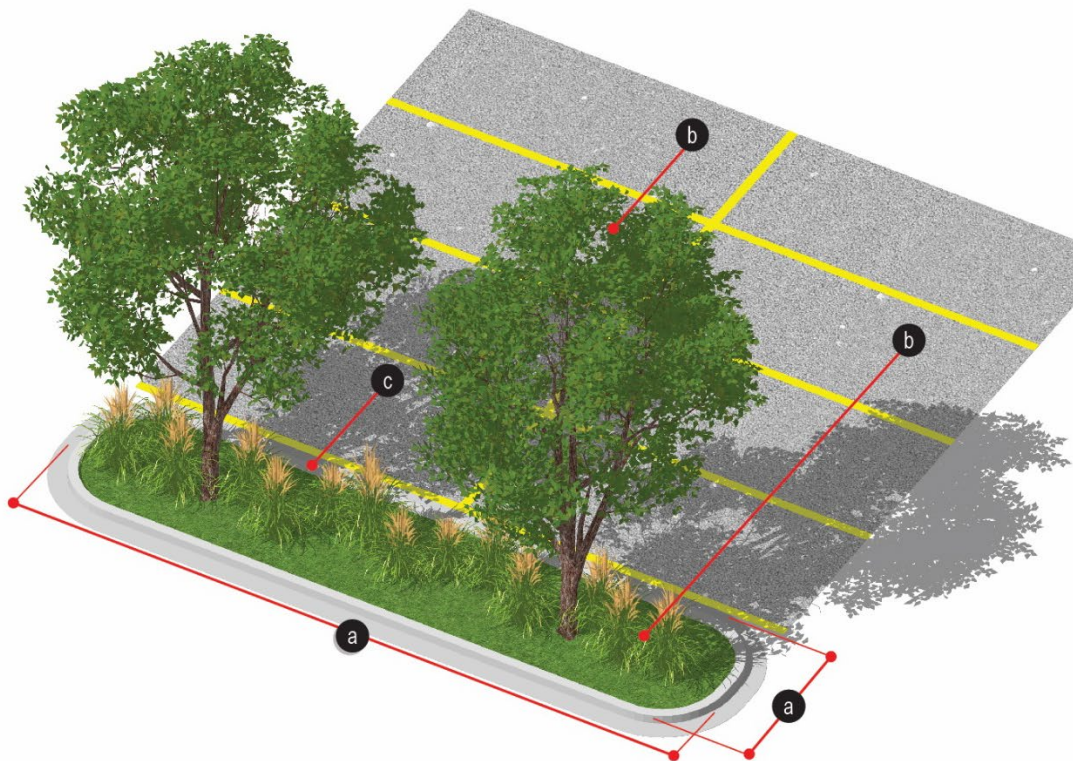




4) **Parking Area End Cap Standards.**

- a) **Size.** Parking area end caps shall be a minimum nine (9) feet wide by eighteen (18) feet long and shall have a minimum soil depth of thirty-six (36) inches. Double rows of parking shall provide parking area end caps opposite one another to form continuous single end cap.
- b) **Planting.** A minimum of one (1) canopy tree and three (3) shrubs or native grasses shall be provided for every parking area end cap. If the end cap extends the width of a double bay, then two (2) canopy trees shall be provided.
- c) **Design.** Parking area end caps shall be protected with concrete curbing or other suitable barriers approved by the Zoning Administrator. Such end caps shall be properly drained or irrigated as appropriate to the site conditions to ensure survivability of plant materials or proper stormwater management function.

**Figure 5.12. Parking Area End Cap Standards**



5) **Parking Area Median Standards.**

- a) **Width.** Parking area medians shall have a minimum width of nine (9) feet and minimum soil depth of thirty-six (36) inches.
- b) **Planting.** A minimum of one (1) canopy tree and fifteen (15) shrubs or native grasses shall be planted for each fifty (50) linear feet of parking area median.
- c) **Groundcover.** A minimum of seventy-five (75) percent of the surface area of every parking area median shall be planted with living groundcover.
- d) **Design.** Parking area medians shall be protected with concrete curbing unless the parking area median is designed to be utilized for stormwater management in which case the perimeter shall be protect by wheel stops, or other suitable barriers approved by the Zoning Administrator. Such medians shall be properly drained or irrigated as appropriate to the site conditions to ensure survivability of plant materials and proper stormwater management function.

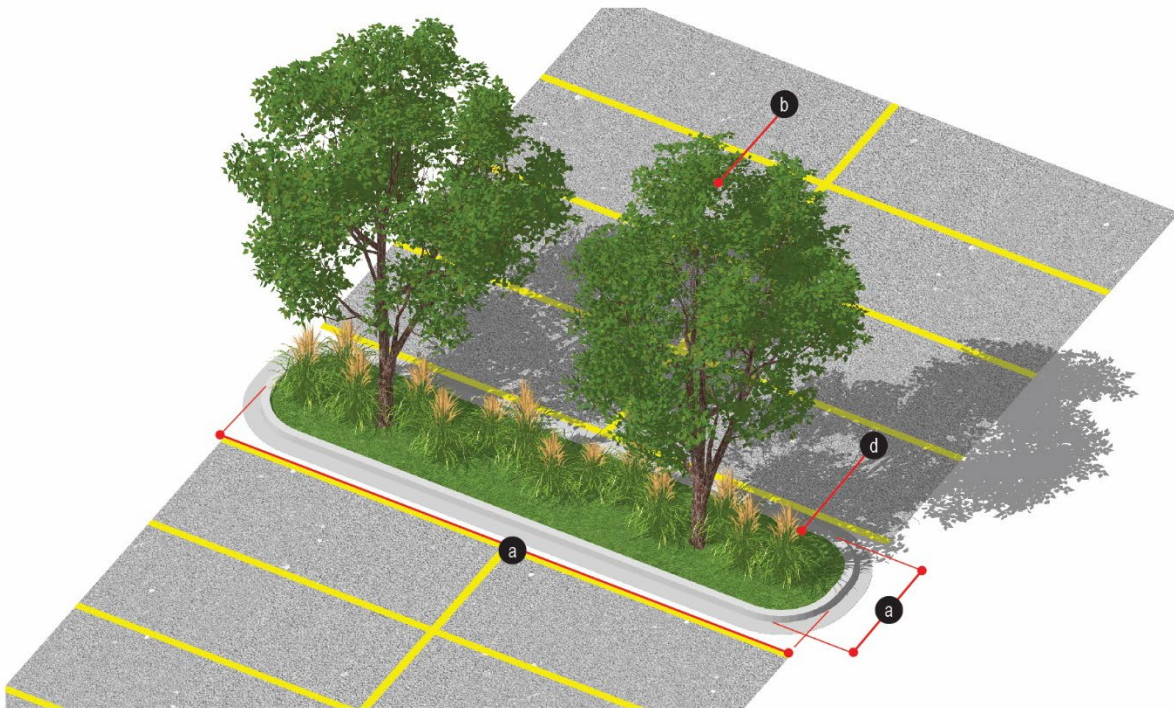
**Figure 5.13. Parking Area Median Standards**



6) **Parking Area Island Standards.**

- a) **Size.** Parking area islands shall be a minimum nine (9) feet wide by eighteen (18) feet long and shall have a minimum soil depth of thirty-six (36) inches. Double rows of parking shall provide parking area islands opposite one another to form continuous single islands.
- b) **Planting.** A minimum of one (1) canopy tree shall be provided for every parking area island. If the island extends the width of a double bay, then two (2) canopy trees shall be provided.
- c) **Groundcover.** A minimum of seventy-five (75) percent of the surface area of every parking area island and median shall be planted with living groundcover.
- d) **Design.** Parking area islands shall be protected with concrete curbing or other suitable barriers approved by the Zoning Administrator. Such islands shall be properly drained or irrigated as appropriate to the site conditions to ensure survivability of plant materials or proper stormwater management function.

**Figure 5.14. Parking Area Island Standards**



H) **Transition Zone Landscape Requirements.** Transition zone landscape shall be required along interior property lines of all nonresidential, mixed use, and multifamily development. It is not expected that the transition area will totally screen such uses but rather will minimize land use conflicts and enhance aesthetics. Landscape required by this Section shall be in addition to landscape required under other Sections of this Zoning Ordinance.

1) **Applicability.** Transition zone landscaping is required as follows:

- a) The construction or installation of any new primary building or primary use; and
- b) The expansion of any existing primary building or primary use that results in an increase in gross floor area by more than five (5) percent or one thousand (1,000) square feet, whichever is greater. In the case of expansions that trigger compliance with transition zone requirements, transition zone landscaping is required only in proportion to the degree of expansion. The Zoning Administrator or their designee is authorized to allow the transition zone to be established adjacent to the area of expansion or to disperse transition zone landscaping along the entire site transition zone.

2) **Application of Transition Zone Types.** Transition zones shall be provided based on Table 5-03(H)(2), except where adjacent uses are of a similar nature, scale, and intensity as determined by the Zoning Administrator. As per Table 5-03(I), the type of required transition zone is dependent upon the land use type of the subject lot and the land use type of the adjacent lot(s).

**Table 5-03(H)(2): Application of Transition Zone Types**

Subject Lot Land Use	Adjacent Lot Land Use												
	Single-Family Detached and Duplex Residential	All Other Residential	Residential Services	Institutional & Place of Assembly	Recreation, Amusement, & Lodging	Retail	Service	Lodging	Eating & Drinking	Vehicle Related	Industrial	Utility & Transportation	
Single-Family Detached and Duplex Residential	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
All Other Residential	A	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	A	B	B	B
Residential Services	B	A	A	n/a	n/a	n/a	n/a	n/a	n/a	A	B	B	B
Institutional & Place of Assembly	B	B	A	n/a	n/a	A	A	A	A	A	B	B	B
Recreation, Amusement, & Lodging	B	B	A	n/a	n/a	A	A	A	A	A	D	D	D
Retail	B	B	B	n/a	n/a	n/a	n/a	n/a	n/a	B	C	C	C
Service	B	B	B	n/a	n/a	n/a	n/a	n/a	n/a	B	C	C	C
Lodging	B	B	B	n/a	n/a	n/a	n/a	n/a	n/a	B	C	C	C
Eating & Drinking	B	B	B	n/a	n/a	n/a	n/a	n/a	n/a	B	C	C	C
Vehicle Related	B	B	B	B	B	A	A	A	A	B	C	C	C
Industrial	D	D	D	D	D	D	D	D	D	D	B	B	B
Utility & Transportation	D	D	D	D	D	D	D	D	D	D	B	B	B
<b>Notes</b>													
Transition zone requirements shall not apply on lots in the CBD District where the adjacent lot has a building with a common parti wall.													

- l) **Transition Zone Types.** Four (4) transition zone types are established in recognition of the different contexts that may exist, as shown in Table 5-03(l). Transition zones may include a combination of elements including setback distances for separation, planting types, solid fencing, green walls, vegetated stormwater management areas, living groundcover, or turf.

Table 5-03(l): Transition Zone Types					
Specification		Type A	Type B	Type C	Type D
(a)	Minimum Zone Width (1)	5 feet	10 feet	15 feet	20 feet
(b)	Minimum Fence/Wall Height (2)(3)	optional	optional	6 feet	6 feet
Minimum Number of Landscape Elements per 100 Linear Feet					
(c)	Understory Tree	optional	3	4	5
(d)	Canopy/Evergreen Tree	4	3	4	5
(e)	Shrubs/Native Grasses	optional	15	25	35
Notes					
(1) Required yard setbacks may be utilized for transition zone landscape.					
(2) Fence or wall requirements may be satisfied by a solid evergreen hedge with a maximum height of six (6) feet, as approved by the Zoning Administrator.					
(3) Fencing shall still be required on the subject lot in any instance that the adjoining property contains a fence along the lot line.					

Figure 5.15. Transition Zone Type A Standards

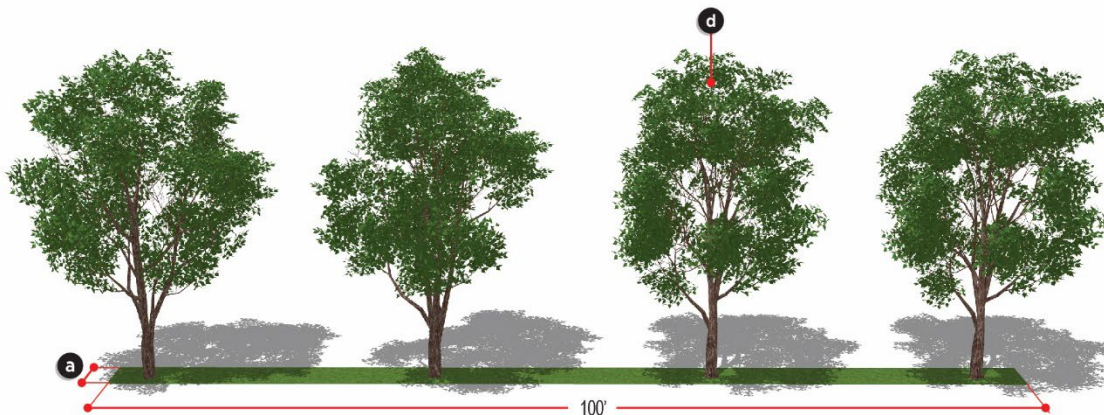


Figure 5.16. Transition Zone Type B Standards

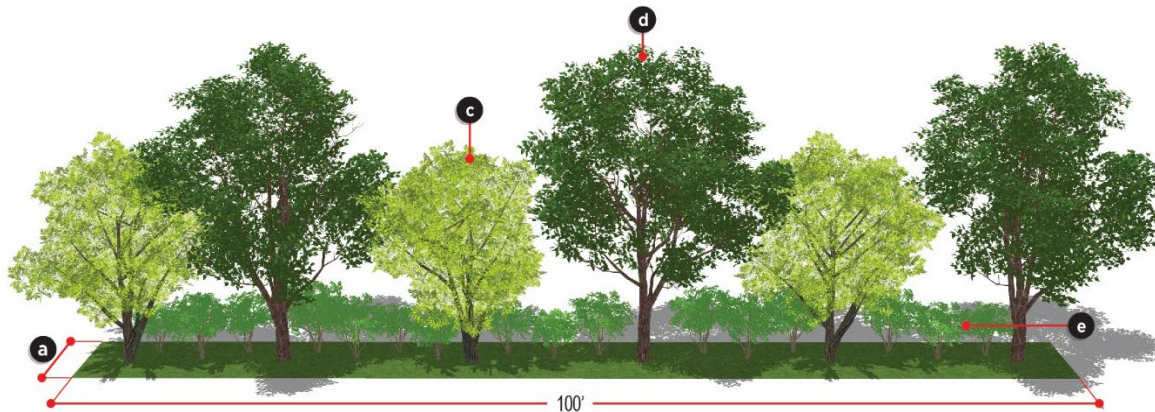


Figure 5.17. Transition Zone Type C Standards

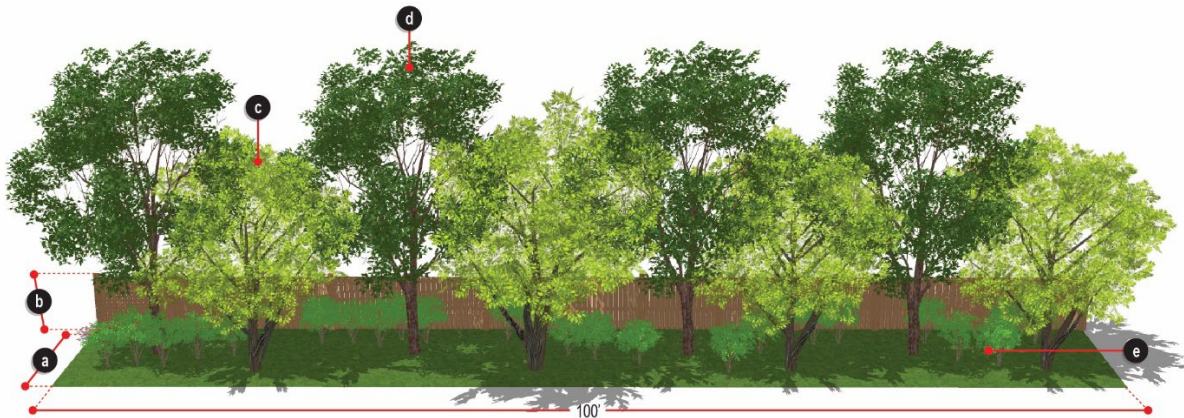
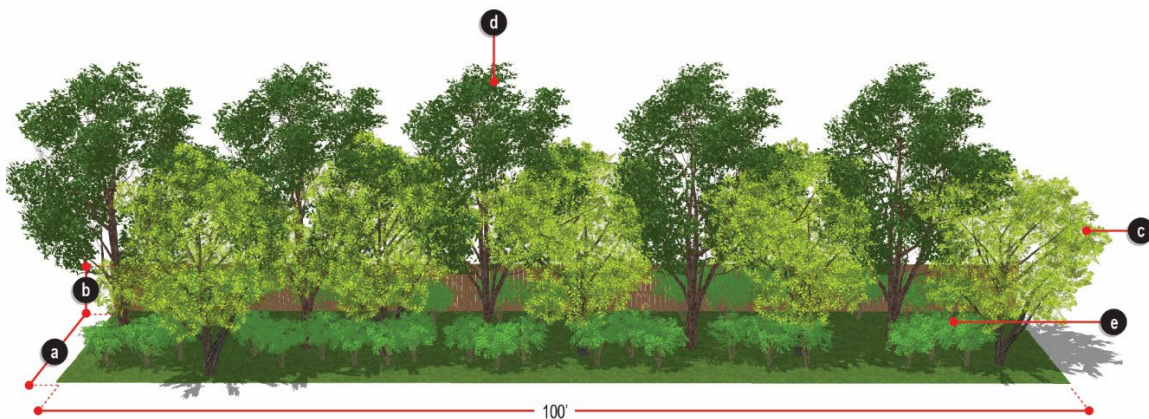


Figure 5.18. Transition Zone Type D Standards



- (J) **Species Diversity Requirements.** The following species diversity standards shall be required for all developments, unless otherwise approved by the Zoning Administrator in conjunction with approval of vegetated stormwater management areas.
- (1) A minimum of fifty (50) percent of the landscape elements utilized on a parcel that is less than one-half (0.5) acre shall be drought tolerant native species.
  - (2) A minimum of sixty (60) percent of the landscape elements utilized on a parcel that is between one-half (0.5) and five (5) acres shall be drought tolerant native species. Total landscape elements, excluding turf, shall not be comprised of more than thirty (30) percent of any single species or fifty (50) percent of any genus.
  - (3) A minimum of seventy-five (75) percent of the landscape elements utilized on a parcel that is greater than five (5) acres shall be drought tolerant native species. Total landscape elements, excluding turf, shall not be comprised of more than twenty (20) percent of any single species or twenty-five (25) percent of any genus.
- (K) **Tree Preservation.** Preservation of existing high-quality trees within a new development or redevelopment site is highly encouraged. Preserved trees may fulfill a portion of the landscape requirements established in this Section. Should the developer propose to maintain existing high-quality trees to count toward satisfying certain landscape requirements of this Zoning Ordinance, the Zoning Administrator may, upon receipt of a tree preservation plan, waive certain landscape requirements if mature, high-quality trees on a lot are proposed to be preserved. If, upon inspection at the conclusion of the project, trees identified for preservation have been removed, damaged, or are otherwise in declining condition, all waived required landscape shall be installed.

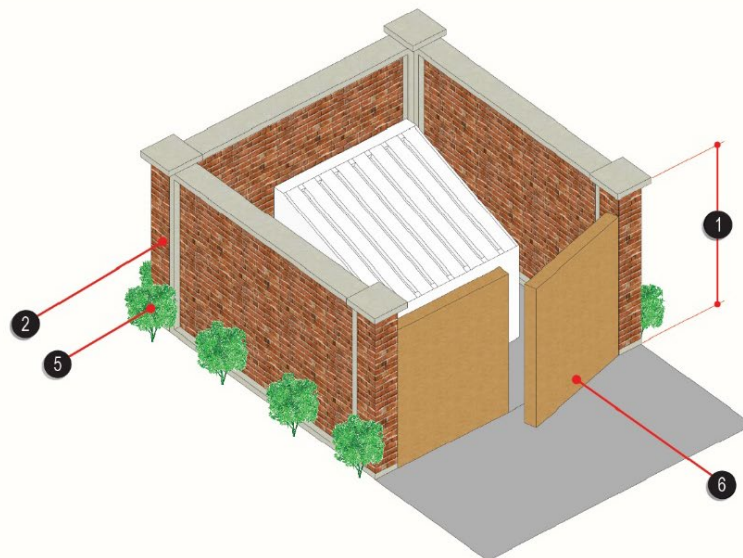
**(L) Installation and Maintenance of Landscape Zones.**

- (1) Immediately upon planting, all landscape shall conform to the American Standard for Nurserymen, published by the American Association of Nurserymen, Inc., as revised from time to time.
- (2) Dead plant materials shall be replaced within sixty (60) days upon notification from the City, taking into consideration the season of the year, and shall have at least the same quantity and quality of landscape elements as initially approved. If the particular project is constructed in more than one (1) phase, the sixty (60) day timeframe shall apply to each individual phase.
- (3) All landscape shall be maintained in a healthy, clean, and weed-free condition. The ground surface of landscape areas shall be covered with either turf and/or other types of pervious groundcover or mulch.
- (4) All landscape zones shall be irrigated as follows:
  - (a) For stormwater management areas where irrigation is not specified, all installed plantings shall be guaranteed to the City for a period of eighteen (18) months following municipal approval of installation. During this guarantee period, the landowner shall supply water as necessary to promote successful establishment and growth.
  - (b) Any required landscaped zone not intended for stormwater management, greater than one hundred and fifty (150) square feet in area, shall be provided with an underground irrigation system or be provided with a portable water supply within fifty (50) feet of said landscaped areas.

## 5-04. Screening

- A) **Grease Traps, Trash, and Recycling Receptacles.** The following regulations shall apply to all nonresidential, mixed-use, and multifamily residential development.
- 1) Grease traps, trash, and recycling receptacles shall be screened on three (3) sides with a solid, opaque material with a minimum height of six (6) feet and a maximum height of eight (8) feet.
  - 2) Materials used for screening shall complement the exterior building cladding materials of the primary building.
  - 3) Materials and elevations for enclosures that are attached to buildings shall be designed to be integrated into the primary building.
  - 4) If enclosures are to be attached to buildings, they shall comply with applicable fire and building codes.
  - 5) Shrubs shall be installed every three (3) feet along the exterior of the enclosure, with the exception of enclosure openings, to provide a softening effect.
  - 6) Enclosure openings shall be gated with an opaque material.
  - 7) Enclosure openings shall be kept closed at all times except for when the receptacle is being accessed.
  - 8) Property owners shall be responsible for ensuring that grease traps, trash, and recycling receptacles be placed in the enclosure at all times other than when it is being accessed.
  - 9) Access drives shall be constructed of materials and to a thickness which accommodates truck loading. Year-round access to the enclosure area for service trucks shall be maintained by the property owner or tenant.
  - 10) Enclosures shall be of an adequate size to accommodate expected containers. The enclosure shall be designed to be expandable to accommodate future additional containers.
  - 11) Enclosure structures shall be designed to protect the walls from damage by containers. Such protection may be provided by the use of barrier curbing, reinforced masonry walls, or other similar means.
  - 12) Grease traps, trash, and recycling receptacle enclosures shall not occupy areas used for required parking spaces.

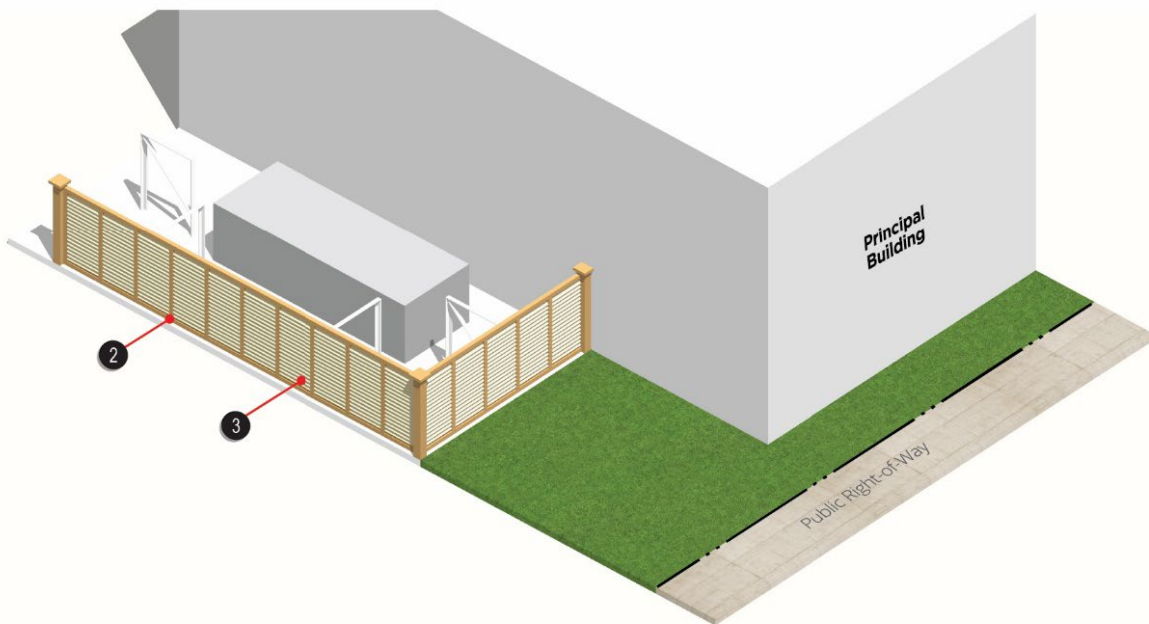
**Figure 5.19. Grease Trap, Trash, and Recycling Receptacle Screening**





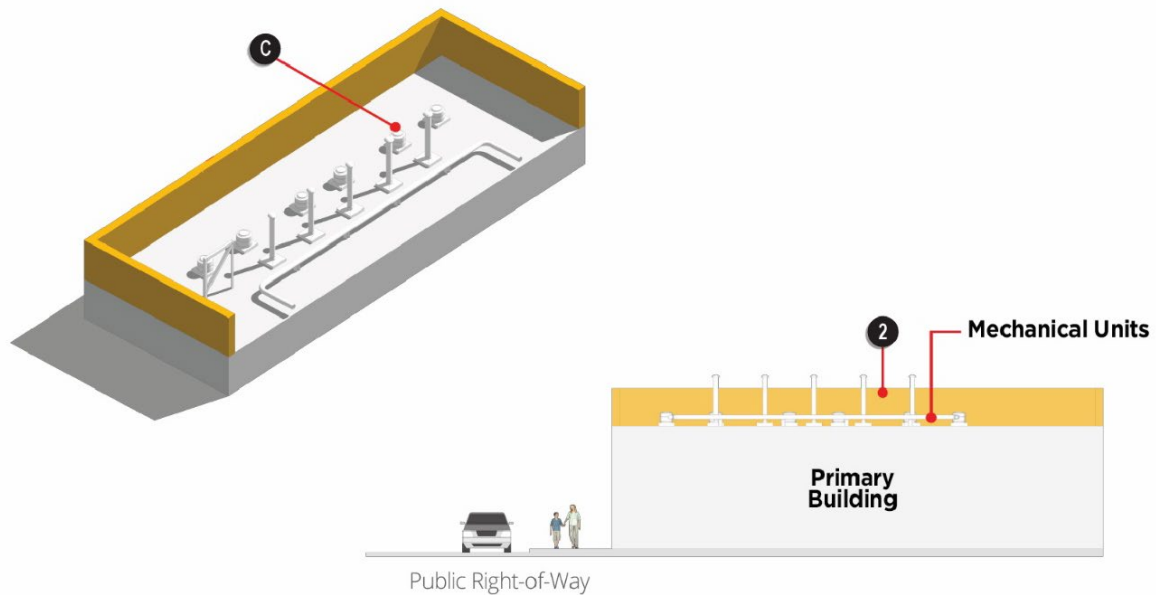
- B) **Ground/Wall Mounted Mechanical Units.** The following regulations shall apply to all ground/wall-mounted mechanical units, including but not limited to generators, air-conditioning condensers, heat pumps, ventilation units, computer cooling equipment, etc., and any related utility structures and equipment. Tanks and / or silos accessory to a brewery, winery, and/or distillery are exempt from these requirements.
- 1) Locating mechanical units within the primary building is strongly encouraged to minimize exterior visual impacts. Ground-mounted mechanical units are prohibited within the front yard, regardless of whether screening is provided.
  - 2) Ground/wall mounted mechanical units that are visible from any public right-of-way or adjacent residential property shall be completely screened from public view.
  - 3) Materials used for screening shall be designed and established so that the area or element being screened is no more than twenty (20) percent visible through the screen. Evergreen hedges or non-transparent walls such as stone masonry shall be allowed.
  - 4) Chain-link fence or slats in chain-link fence shall not be used to meet this requirement.

**Figure 5.20. Ground-Wall Mounted Equipment Screening**



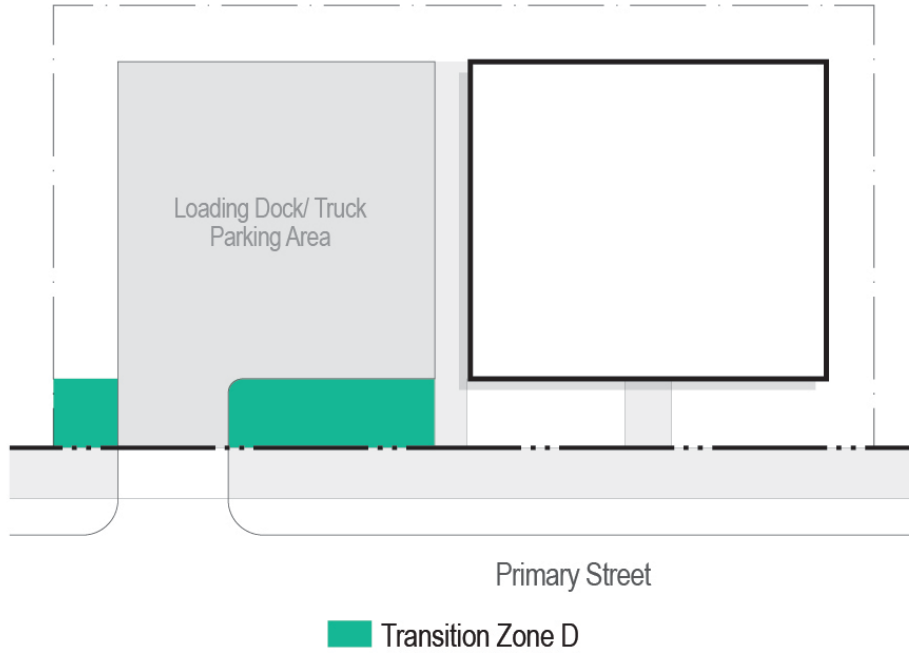
- C) **Roof Mounted Mechanical Units.** The following regulations shall apply to all roof mounted mechanical units, including but not limited to air-conditioning condensers, heat pumps, ventilation units, computer cooling equipment, etc., and any related utility structures and equipment which service multifamily residential, non-residential, or mixed-use developments.
- 1) Locating mechanical units within the primary building is strongly encouraged to minimize exterior visual impacts.
  - 2) Roof mounted mechanical units that are visible from any public right-of-way or adjacent residential property shall be completely screened from public view.
  - 3) Materials used for screening shall be architecturally integrated with the building and shall be continuous and permanent.
  - 4) Screening shall be required when new equipment is installed and shall be provided around both new and existing roof mounted mechanical units in order to provide visual continuity. Normal maintenance of roof mounted mechanical units shall not mandate the screening requirements.
  - 5) Additional screening may be required due to topographic differences in the adjoining properties.

**Figure 5.21. Roof-Mounted Mechanical Unit Screening**



D) **Loading Docks and Truck-Parking Areas.** Loading docks and truck-parking areas that are visible from any property in a residential district shall be completely screened from view with a Type D transition zone as specified in Table 5-03(I).

**Figure 5.22. Loading Dock and Truck Parking Screening**



## 5-05. Fences

### A) General Provisions.

- 1) **Location.** All fences allowed in this Section shall be located:
  - a) Wholly within or along property lines,
  - b) Outside of a clear sight triangle as detailed in Section 5-06,
  - c) In a manner which does not block access to underground utility access structures; drainage structures; telephone, electric, cable television or gas pedestals; or fire hydrants,
  - d) A minimum of two (2) feet from a sidewalk, where the sidewalk is within the public right-of-way.
  - e) A minimum of two (2) inches above finished grade if located in a drainage swale or a drainage easement, and
  - f) In a manner which does not inhibit the function of stormwater drainage structures.
- 2) **Material Standards.**
  - a) **Materials Permitted.** Permitted fence materials shall be only those materials which are designed and intended for use in fence installations and shall be limited to:
    - (1) Masonry
    - (2) Vegetation (including but not limited to “green wall” systems),
    - (3) Wood, chemically treated or naturally resistant to decay,
    - (4) Wood Composites,
    - (5) Aluminum,
    - (6) Vinyl/PVC,
    - (7) Wrought Iron,
    - (8) Coated Chain Link without slats or inserts,
    - (9) Trellises composed of materials allowed in this subsection, and
    - (10) As approved by the Zoning Administrator.

B) **Fences on Lots with Single-Family and Duplex Uses.** Fences on lots with single-family and duplex uses shall meet the requirements established below. Barbed wire, razor wire, agricultural fencing, or unconventional materials such as plywood or tarps or others as determined by the Zoning Administrator shall be prohibited on lots with single-family and duplex uses. All fences shall be erected so that the posts and all other supporting members face inward toward the owner's property.

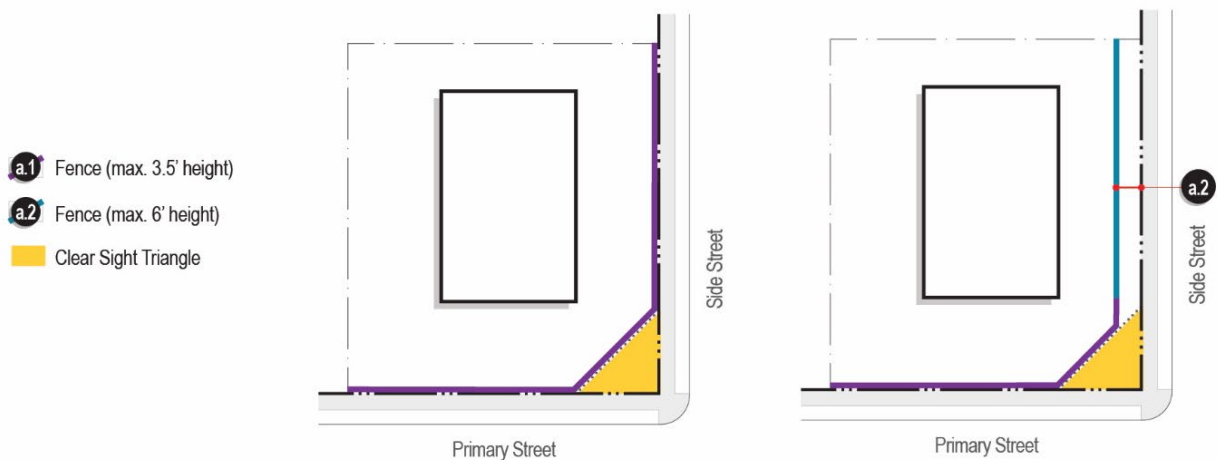
1) **Fences in Front and/or Exterior Side Yards.**

a) **Height.**

- (1) Fences in front and/or exterior side yards shall not exceed three and one-half (3.5) feet in height
- (2) Fences in exterior side yards may have a maximum height of six (6) feet if located at least seven (7) feet from the property line.

b) **Materials.** Fences in front yards and/or exterior side yards shall be of non-sight barrier construction and have a maximum opacity of fifty (50) percent. However, fences in street side yards may be one hundred (100) percent opaque if located a minimum of seven (7) feet from the street side lot line.

**Figure 5.23. Front/Exterior Side Yard Fencing Standards on Lots with Single-Family and Duplex Uses**



2) **Fences in Interior Side and Rear Yards.**

- a) **Height.** The maximum height of a fence in interior side yards and rear yards shall be six (6) feet.
- b) **Materials.** Fence materials utilized in interior side yards and rear yards shall complement fence materials which are or may be utilized in other yards. Fences in interior side and rear yards may be one hundred (100) percent opaque.

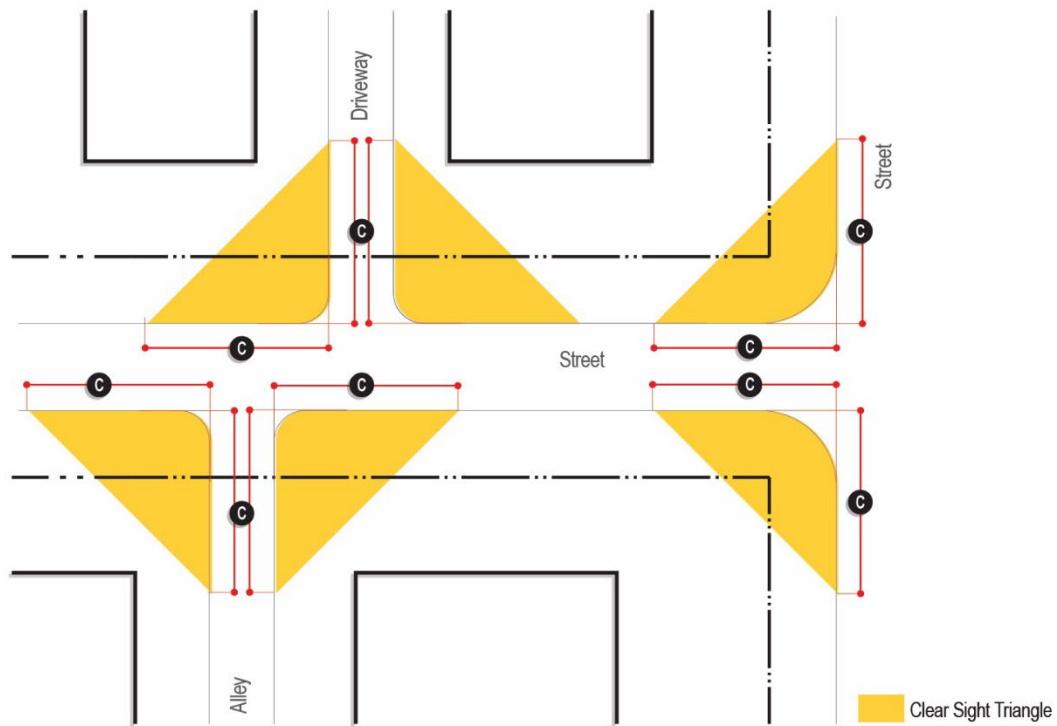
C) **Fences on Lots with Townhome, Multifamily, Mixed-Use, and Nonresidential Uses.**

- 1) **Height.** The maximum height of fences on a lot with townhome, multifamily, mixed-use, and nonresidential uses shall not exceed six (6) feet.
- 2) **Location.** Fences on lots with townhome, multifamily, mixed-use, and nonresidential uses shall be located in rear and interior side yards only. However, fences on lots in the BP District may be located in exterior side, interior side, and rear yards only.

### 5-06. Intersection Visibility

- A. Unobstructed visibility shall be maintained at the intersection of any driveway and right-of-way, and at the intersection of two (2) or more streets. Such area of unobstructed visibility shall be referred to as a clear sight triangle.
- B. The clear sight triangle shall be measured perpendicular to and starting at the back of curb of each intersecting street or driveway.
- C. The minimum distance at any intersection shall be twenty (20) feet. Greater distances may be required based on the criteria of the American Association of State Highway and Transportation Officials (AASHTO), the Michigan Department of Transportation (MDOT), and the discretion of the City Engineer.
- D. The maximum height of any structure within the clear sight triangle shall be three (3) feet.

**Figure 5.24. Clear Sight Triangle Standards**



**5-07. General Multifamily, Mixed-Use, and Nonresidential Design Standards**

- A) **Applicability.** The standards of this section shall apply to all townhome, multifamily, mixed-use, and nonresidential developments outside the CBD District. The standards of Section 3-05 shall govern development in the CBD District.
- B) **Exterior Building Cladding Materials.** Allowable exterior building cladding materials on building facades facing a front or exterior side lot line shall be as detailed below. Glazing shall not be included in the façade material calculations. When part of a common development, buildings shall use materials that are consistent with or complement surrounding development.
  - 1) **Masonry.** A minimum of fifty (50) percent of the façade area shall be masonry, such as brick, stacked stone, stone masonry units, and architectural concrete masonry units.
  - 2) **Lap Siding, Stucco, EIFS.** A maximum of fifty (50) percent of the façade area may be lap siding including cementitious fiber board, stucco, or EIFS.
  - 3) **Concrete and Architectural Metal Siding.** A maximum of fifteen (15) percent of the façade area may be concrete or non-corrugated architectural metal siding.
  - 4) **Vinyl Siding, Unfinished Concrete Block.** The use of vinyl siding and unfinished concrete block shall be prohibited.
- C) **Façade Articulation.** Articulation involves the horizontal and vertical variation of the façade so that walls are subdivided into bays or sections that are vertically proportioned. The following provisions for façade articulation shall apply to any building elevations facing a front or exterior side lot line.
  - 1) The frontage of the building shall be divided into architecturally distinct sections or bays with each section taller than it is wide.
  - 2) Sections or bays shall be visually established by architectural features such as columns, ribs, pilasters, piers, recesses, projections, windows, awnings, arcades, or an equivalent element that visually subdivides the wall with a roof or cap features that provides a rational terminus and integrates with the overall design of the façade.
  - 3) The required dividing elements shall have a minimum width of one (1) foot and minimum projection to width ratio of 1:4.
- D) **Glazing.**
  - 1) **Transparency Zone.** Glazing that is transparent under all lighting conditions shall extend from a base of contrasting material (not exceeding four (4) feet in height above the adjacent grade) to at least the height of the door head. Table 5-07 details the minimum required percentage of square footage in the transparency zone that must have a glazing treatment.

Zoning District	Elevation Facing Yard	
	Front	Exterior Side
<i>GCD</i>	40%	30%
<i>BP or I</i>	30%	20%

- 2) **Glazing to be Dispersed.** Required glazing shall not be aggregated into a single, undivided area of glazing treatment. Individual glazing areas shall not span more than fifteen (15) linear feet.

**5-08. Outdoor Lighting**

- A. **Fixture Classification.** All outdoor lighting fixtures, with the exception of wall mounted accent lighting, shall either have a fixture cutoff classification of “Full Cutoff” or be fully shielded, unless otherwise expressly permitted in this ordinance.
- B. **LED Fixtures.** All outdoor lighting utilizing a light-emitting diode (LED) fixture shall meet the following standards:
  - 1. **Color Rendering.** Outdoor LED fixtures shall be rated a minimum Color Rendering Index (CRI) value of seventy (70) or higher.
  - 2. **Color Temperature.** Outdoor LED fixtures shall have a correlated color temperature between four thousand (4,000) and five thousand (5,000) degrees Kelvin.
- C. **Pole Mounted Outdoor Lighting.**
  - 1. **Pole Placement.** Pole-mounted outdoor lighting shall be located outside of utility easements, designed in coordination with site features and required landscape zones.
  - 2. **Maximum Pole Height.** Pole-mounted fixtures shall be mounted at heights above grade no greater than those specified in Table 5-08(C).

<b>Table 5-08(C): Maximum Luminaire Height</b>	
District	Maximum Permitted Luminaire Height
<i>R-1 and R-2 Districts</i>	15 feet
<i>R-3, CBD, and WM Districts</i>	20 feet
<i>All other districts</i>	30 feet (1)
<i>Notes</i>	
(1) 20-foot maximum shall be allowed when within one-hundred-fifty (150) feet of a property within a residential district or with a residential use.	

- D. **Wall Mounted Accent Lighting.** Wall mounted accent lighting shall be integrated with the architectural character of the building and shall use low-luminosity lamps, with two thousand (2,000) source lumens or less. The illumination on any vertical surface shall not exceed one-half (0.5) maintained foot candle and shall not spill over roof lines or building edges.
- E. **Outline Lighting Prohibited.** Outline lighting shall be prohibited from signs, buildings, and structures.
- F. **String Lighting Prohibited.** String lighting used on signage shall be prohibited.
- G. **Maximum Light Level at Property Line.**
  - 1. On lots adjacent to lots in a nonresidential zoning district, all outdoor lighting fixtures shall be designed and located so that the maximum light level shall be one-half (0.5) maintained foot candle at any property line.
  - 2. On lots adjacent to lots in a residential zoning district, all outdoor lighting fixtures shall be designed and located so that the maximum light level shall be zero (0) maintained foot candle at any property line.
- H. **Light Level Measurement.**
  - 1. **Location.** Light level measurements shall be made at the property line of the property upon which the light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the property of the complainant or at any other location on the property of the complainant. Measurements shall be made at finished grade (ground level), with the sensor in the horizontal position and not mounted more than six (6) inches above ground level, and with the light-registering portion of the meter held parallel to the ground and pointing upward.



2. **Light Meter Specifications.** Light levels shall be measured in foot candles with a direct-reading portable light meter. The meter shall:
  - a. Have cosine and color correction,
  - b. Have an accuracy tolerance of no greater than plus or minus five percent (5%), and
  - c. Have been calibrated within the last two (2) years.

## 5-09. Stormwater Standards

- A) **Drainage Design.** The drainage portion of the site plan shall be designed to City storm design standards and not increase water run-off to adjoining properties, nor overburden watercourses in the area. Retention or detention areas shall be kept to the smallest number possible.

## 5-10. Private Roads

- A) **Purpose.** The City determines that it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private streets. These provisions have been enacted to assure that private streets:
  - 1) Will not be detrimental to the public health, safety, or general welfare;
  - 2) Will not adversely affect the long-term development policies of the City;
  - 3) Will be designed and constructed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles.
  - 4) Will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the City.
- B) **Frontage and Access.**
  - 1) Any lot not having frontage on a public street shall have frontage upon a private street.
  - 2) All parcels utilizing a private street shall have frontage on the private street for at least the minimum lot width required for the district in which the parcel is located.
  - 3) All private streets shall have direct access to a public street.
- C) **Permits.**
  - 1) No individual, association, corporation, or entity, either public or private, shall construct a private street without first having obtained a private street permit from the City.
  - 2) The Building Inspector shall not issue building permits for construction of any building or structure on lots served solely by a private street until a permit for the private street has been approved by the Planning Commission and a safe and unimpeded route of travel is available for any such structure requiring a building permit.
  - 3) A driveway permit shall be obtained from the Michigan Department of Transportation, where applicable, or from the City.
  - 4) A soil erosion and sedimentation control permit shall be obtained, as may be required by the Soil Erosion and Sedimentation Control Act of 1972, as amended.
  - 5) All other required State of Michigan permits shall be obtained.

- 6) The Planning Commission may elect to have all design and construction plans reviewed by the City's attorney, engineer, or planner prior to consideration of the application for the private street permit.

**D) Design requirements.**

- 1) Construction specifications for width, surface and base materials, curbing, drainage, utility locations, and method of construction shall conform to the City standards for public streets except as otherwise provided, as follows:
  - a) All private streets shall have a recorded permanent right-of-way and easement with a minimum width of at least forty (40) feet. The easement shall also expressly permit public or private utilities to be installed within the easement.
  - b) The area in which the private street is to be located shall have a minimum cleared width of twenty-four (24) feet, which clearing shall always be maintained by the owners of the private street.
  - c) Road surface may be gravel but shall meet the minimum construction standards of the Berrien County Road Commission for gravel roads. The road surface shall be a minimum of sixteen (16) feet in width.
  - d) Any private street which terminates at a dead-end shall have a means for vehicle turn-around either by use of a cul-de-sac, with a minimum radius of forty (40) feet, or by a continuous loop private street system, both of which must be constructed in accordance with the standards set forth in this section.
  - e) The road surface shall have a minimum crown of one-fifth (1/5) foot per foot from the center line of the private street to the outside edge thereof.
  - f) A road shoulder at least two (2) feet wide, composed of six (6) inches of compacted gravel, shall be provided on each side on the private road surface and shall slope one-half (1/2) inch per foot from the outside edge of the road surface to the top of the slope.
  - g) The maximum longitudinal road grade shall not exceed six (6) percent, provided that the City Council may allow up to a ten (10) percent grade if the applicant produces written justification, satisfactory to the City Council, that an increase in the road grade will not adversely affect public safety and the design of the road system(s). The City Council may seek written recommendations from the City Engineer.

**2) Length of Private Streets.**

- a) No private street shall extend for a distance of more than one-thousand two-hundred and forty (1,240) feet in length from the nearest public street right-of-way from which access is gained, as measured along the center line of the private street to the furthest point of any private street, except as otherwise noted, without a private street access complying with this section being provided to another public street.
- b) The maximum length of a proposed private street may be exceeded if the City Council, after recommendation of the Planning Commission, finds that at least one (1) of the following conditions exists:
  - (1) That topography or other significant natural features preclude access to any other public street or adjoining property on which a public street may be constructed. Such significant natural features shall be clearly identified and marked on the proposed private street plans.
  - (2) That not allowing a longer private street would result in inefficient use of land. Alternate development plans demonstrating that no other development is feasible shall be submitted by the applicant and reviewed by the City Council prior to confirming this finding.
  - (3) That other methods of access are available such that emergency vehicles are assured a safe and unimpeded route of travel to the properties served by the private street. Such access shall be reviewed by the Fire Chief and the recommendation forwarded to the Planning Commission and then the City Council.

- c) The City Council, upon a finding that at least one (1) of the above conditions exists, shall establish the maximum length of the proposed private street.

**3) Right-Of-Way/Easement Width.**

- a) All private streets constructed after the effective date of this Ordinance shall have a recorded permanent right-of-way and easement with a minimum width of at least forty (40) feet. The right-of-way shall also expressly permit public or private utilities to be installed within the right-of-way.
- b) Private streets in existence as of the effective date of this Ordinance whose right-of-way or easement width is less than forty (40) feet need not provide additional right-of-way or easement width, but such width shall not be subsequently reduced so as to increase its noncompliance with these requirements.

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

**5) Existing Private Streets.**

- a) A private street existing on the effective date of this Ordinance may continue in existence and be maintained and used, though it may not comply with the provisions of this section. Such private streets shall be continuously maintained to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
- b) Any private street existing on the effective date of this Ordinance to which one (1) or more additional lots or parcels are created or otherwise permitted access, shall have the entire length of the existing private street upgraded to comply with the applicable requirements of this Subsection D.
- c) If a private street existing on the effective date of this Ordinance is extended by the construction and use of an additional length of private street the entire private street, including the existing portion and the additional portion, shall comply with the applicable requirements of this Subsection D.

**E) Maintenance and Repairs.**

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

- b) The applicant(s) agree, by filing an application for and receiving a permit under this Ordinance, that they will assure that any building(s) or parcels thereafter created or constructed on the private street shall also be subject to the street maintenance or restrictive covenant agreement and that said agreement shall be recorded and shall run with the land. A copy of said agreement shall be furnished to the Planning Commission prior to the issuance of the permit.

## Article 6. Sign Standards

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### 6-01. Purpose

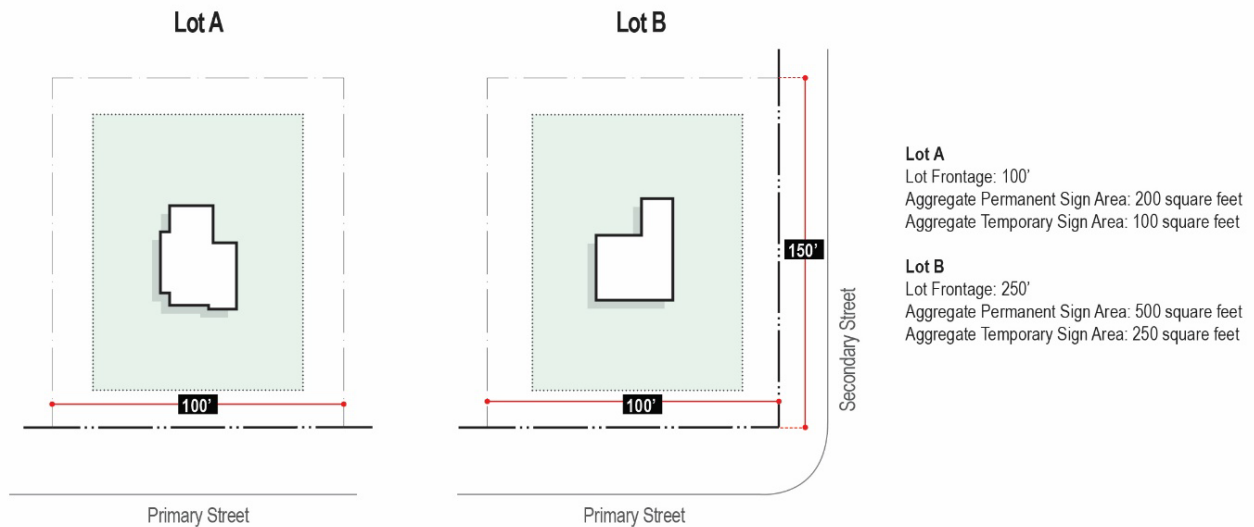
- A) **Purpose.** The purpose of this Article is to set out regulations for the erection and maintenance of signs while preserving the right of free speech and expression.
- B) **Scope.** The regulations of this Article shall provide a balanced and fair legal framework for design, construction, and placement of signs that:
  - 1) Promotes the safety of persons and property by ensuring that signs do not create a hazard by:
    - a) Collapsing, catching fire, or otherwise decaying;
    - b) Confusing or distracting motorists; or
    - c) Impairing drivers' ability to see pedestrians, obstacles, or other vehicles, or to read traffic signs; and
  - 2) Promotes the efficient communication of messages, and ensures that persons exposed to signs:
    - a) Are not overwhelmed by the number of messages presented; and
    - b) Are able to exercise freedom of choice to observe or ignore said messages according to the observer's purpose; and
  - 3) Protects the public welfare and enhances the appearance and economic value of the landscape by protecting scenic views and avoiding sign clutter that can compromise the character, quality, and viability of commercial corridors;
  - 4) Ensures that signs are compatible with their surroundings, and prevents the construction of signs that are a nuisance to occupants of adjacent and contiguous property due to brightness, reflectivity, bulk, or height;
  - 5) Promotes the use of signs that are aesthetically pleasing, of appropriate scale, and integrated with the built environment, in order to meet the objectives related to the quality and character of development set forth in the City of New Buffalo Master Plan;
  - 6) Enhances property values and business opportunities;

- 7) Assists in wayfinding; and
- 8) Provides fair and consistent permitting and enforcement.

**6-02. Limit on Sign Area**

- A) **Permanent Sign Area Limit.** Each lot shall be allowed aggregate permanent sign area equal to two (2) square feet of sign area per linear foot of lot frontage.
- B) **Temporary Sign Area Limit.** Each lot shall be allowed aggregate temporary sign area equal to one (1) square foot of sign area per linear foot of lot frontage.
- C) **Premises Having Frontage on More Than One Dedicated Street.**
  - 1) Premises having frontage on more than one (1) dedicated street will be allowed an additional one (1) square foot of aggregate temporary sign area for each linear foot of the secondary lot frontage.
  - 2) Premises having frontage on more than one (1) dedicated street will be allowed an additional one-half (0.5) square foot of aggregate permanent sign area for each linear foot of the secondary lot frontage.
  - 3) Additional sign and sign copy area shall only be displayed on the secondary frontage.
- D) **Irregularly Shaped Lots.** Irregularly shaped lots with minimal lot frontage, relative to more typically shaped lots in the district, may petition for additional aggregate sign area through the Comprehensive Sign Plan process as detailed in Section 8-10.

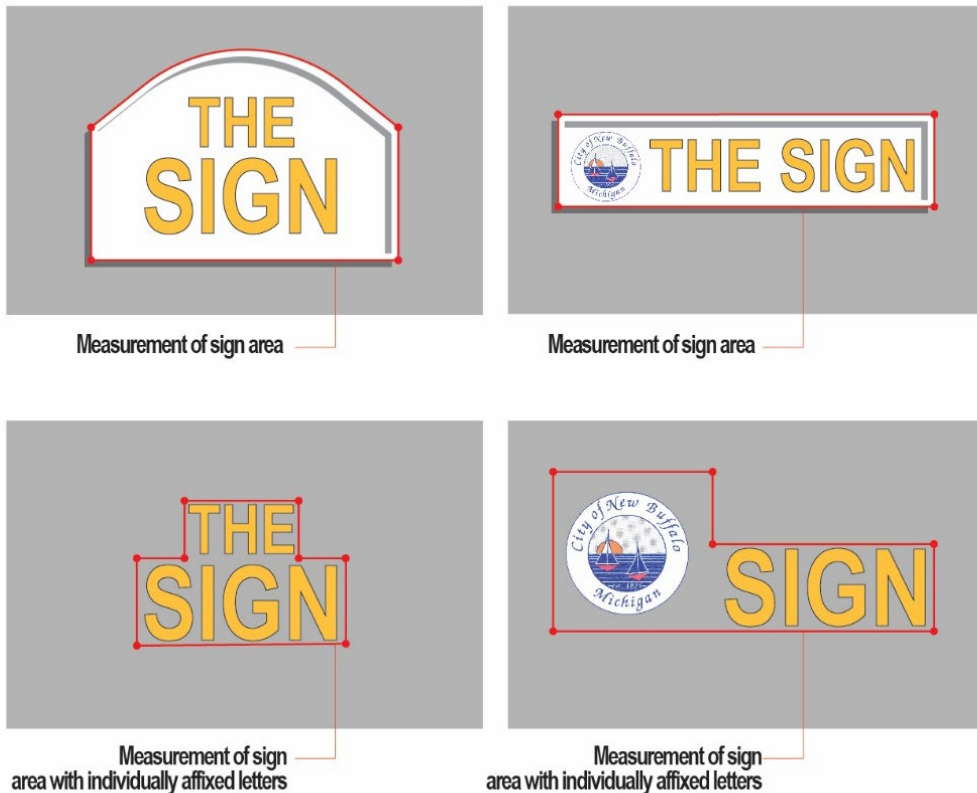
**Figure 6.1. Limit on Sign Area**



### 6-03. Sign Measurement

- A) **Sign Height.** Sign height shall be measured by the total distance between the highest point on the sign to the average elevation of the ground upon which the sign supports are placed, except when:
- 1) The sign supports rest upon a berm or other area elevated above the surrounding ground, or
  - 2) The sign supports rest upon a ditch or other area lower than the surrounding ground.
- B) In the cases detailed in Section 6-03(A) above, the elevation of the centerline of the adjacent roadway shall be considered as the ground level.
- C) **Sign Area.**
- 1) Sign area is determined by the total area enclosed by a continuous perimeter along the edges of a sign, including any frame or border.
  - 2) The area of a sign composed of individually-affixed letters is determined by the total area of the smallest geometric shape enclosing the copy.
  - 3) A maximum of two (2) geometric shapes may be utilized in sign area calculation.
  - 4) The calculation for a double-faced sign shall be the area of one (1) face only.

**Figure 6.2. Sign Area Standards**



**6-04. Permitted and Allowed Sign Types By District**

- A) The following key is to be used in the interpretation of Table 6-04(B) Permitted and Allowed Sign Types by District.
- 1) **Sign Types Requiring a Permit.** Sign types marked as “●” in the tables shall be permitted subject to all applicable regulations of this Ordinance and only after the issuance of a Sign Permit as detailed in Section 8-03(E).
  - 2) **Sign Types not Requiring a Permit.** Sign types marked as “○” in the tables shall be allowed subject to all applicable regulations of this Ordinance without the issuance of a Sign Permit.
  - 3) **Prohibited Sign Types.** A blank space in the table indicates that a sign type is prohibited in the respective district.
  - 4) **Interpretation of Similar Sign Type.** If a proposed sign is not listed in the table, the Zoning Administrator shall determine if the sign is substantially similar to a sign listed in the table. If it is, the standards applied to the proposed sign shall be the standards applicable to the similar sign. If not, the sign shall be regarded as prohibited.
- B) **Permitted and Allowed Sign Types by District.**

Table 6-04(B): Permitted and Allowed Sign Types by District							
Sign Type	District						
	R Districts	CBD	GCD	WM	BP	PSP	NCD
<i>Permanent Signs</i>							
Wall Sign		●	●	●	●	●	●
Single-Tenant Monument Sign	●(1)		●		●	●	●
Multi-Tenant Monument Sign			●		●	●	●
Awning/Canopy Sign		●	●	●	●	●	●
Projecting Sign		●	●	●			
Window Sign, Permanent		●	●	●	●		
On-Site Traffic Directional Sign		○	○	○	○	○	○
<i>Temporary Signs</i>							
Wall Mounted Banner Sign		●	●	●	●	●	●
Ground Mounted Banner Sign			●	●	●	●	●
Window Sign, Temporary		●	●	●	●	●	
A-Frame/Sandwich Board Sign		○	○				
Post Sign	○					○	○
Yard Sign	○					○	○
<i>Notes:</i>							
(1) Sign shall be permitted for multifamily, non-commercial place of assembly, and home occupation uses only.							



## 6-05. Standards For Permanent Signs

### A) Wall Signs.

#### 1) Sign Area.

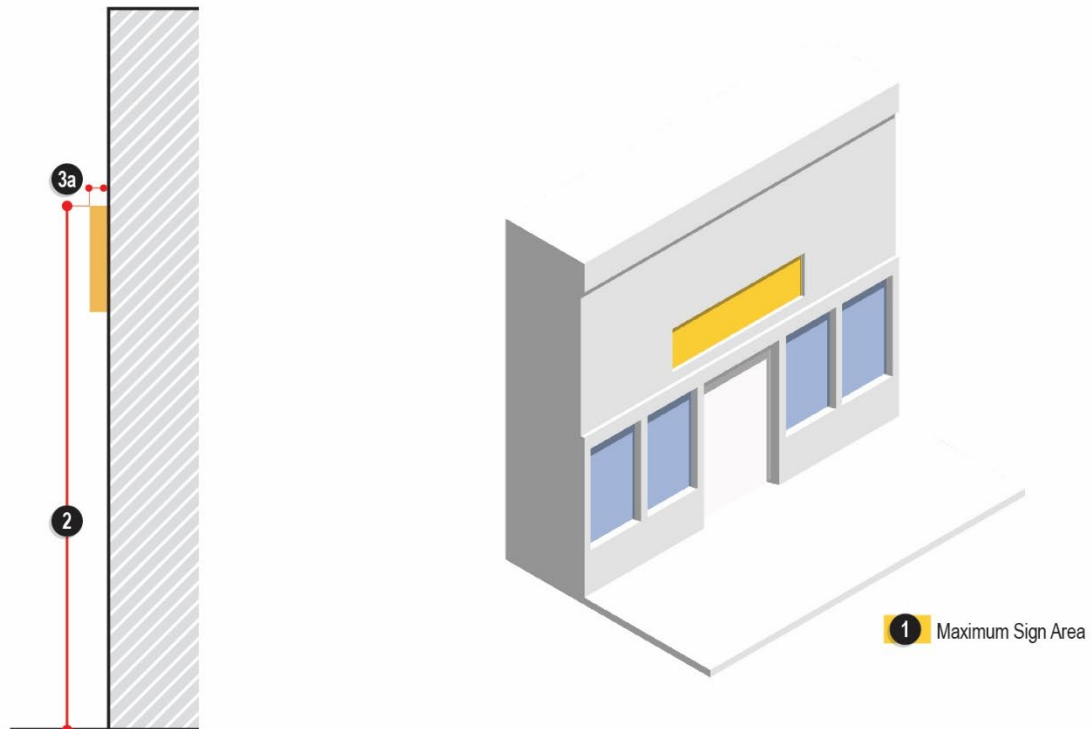
- a) The maximum sign area of wall signs in the CBD and WM Districts shall be five (5) percent of the total area of the face of the wall to which the sign is to be affixed.
- b) The maximum sign area of wall signs in all other Districts shall be ten (10) percent of the total area of the face of the wall to which the sign is to be affixed.

#### 2) Sign Height. No wall sign shall protrude above the sill of a second-story window or windows of the building or structure to which such sign is to be attached.

#### 3) Projection.

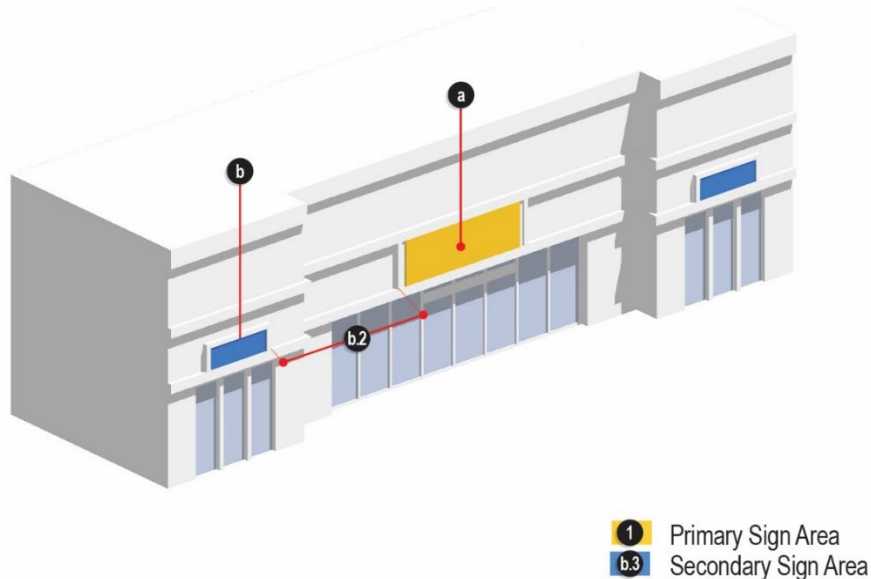
- a) No part of any wall sign, except lighting reflectors, shall extend more than twelve (12) inches from the face of the wall to which such sign is attached.
- b) No wall sign shall be erected or maintained to extend beyond the end of the wall facing a street to which such sign is attached.

Figure 6.3. Wall Sign Standards



- 4) **Number of Signs.**
  - a) **Primary Wall Signs.**
    - (1) Single tenant buildings shall be permitted a total of three (3) primary wall signs; however only one (1) wall sign shall be displayed on any single building façade.
    - (2) Multi-tenant buildings shall be permitted one (1) primary wall sign per unit.
  - b) **Secondary Wall Signs.** A maximum of two (2) secondary wall signs may be authorized for buildings with lineal frontage in excess of seventy-five (75) feet by the Zoning Administrator provided such additional signage is:
    - (1) In keeping with the overall design and architecture of the building,
    - (2) A minimum of twenty (20) feet from the primary wall sign and other secondary wall signs,
    - (3) A maximum of fifty (50) percent of the size of the primary wall sign,
    - (4) Less visually prominent on the site than the building's primary wall sign, and
    - (5) The total area of all primary and secondary wall signs does not exceed the maximum wall sign area as established in Section 6-05(A).

**Figure 6.4. Secondary Wall Sign Standards**



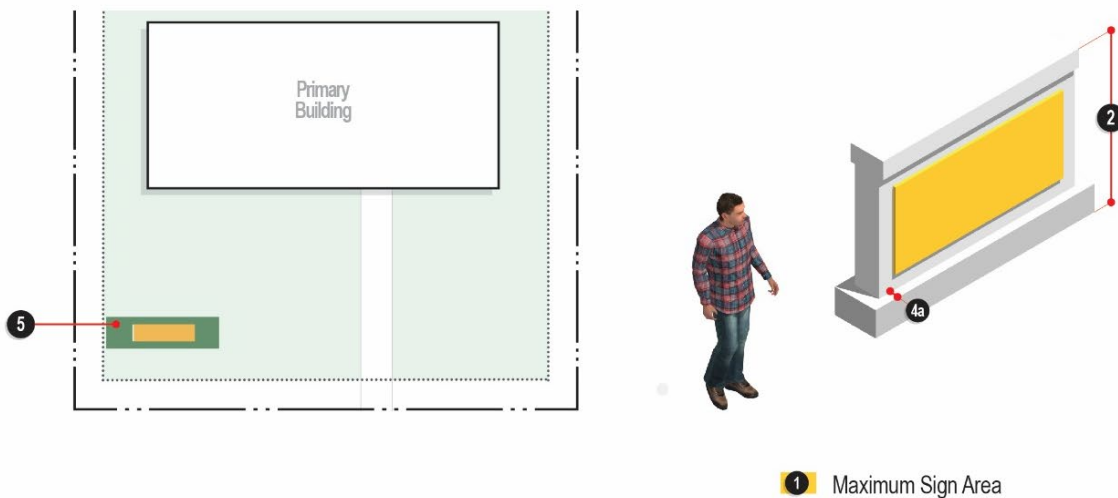
- 5) **Sign Copy.**
  - a) If the sign copy is individually affixed letters, the Zoning Administrator may approve an increase in sign area up to an additional five (5) percent of the total area of the face of the wall to which the sign is to be affixed.
  - b) Box/cabinet wall signs shall be prohibited.
- 6) **Other Provisions.**
  - a) No wall sign shall cover any architectural features (architectural features shall include but not be limited to, pediment, cornice, belt course, pier, windows, pilaster, roof, decorative stone or inlay, kick plate/bulkhead, raised or colored brick pattern, and corbel) of the building to which it is affixed.

- b) No wall sign shall be affixed to HVAC screening, elevator overrun, or other structures protruding from the roof of the principal building.

**B) Single-Tenant Monument Signs.**

- 1) **Sign Area.** The maximum sign area of a single-tenant monument sign shall be forty-five (45) square feet.
- 2) **Sign Height.** The maximum sign height of a single-tenant monument sign shall be ten (10) feet.
- 3) **Number of Signs.** A maximum of one (1) single-tenant monument sign shall be permitted per lot frontage.
- 4) **Sign Base.**
  - a) The base of a single-tenant monument sign, including all structural components, shall extend horizontally from the sign face a minimum of ten (10) percent and a maximum of twenty-five (25) percent of the width of the sign face.
  - b) The base of single-tenant monument signs shall be constructed from masonry, stone, or similar high-quality materials in keeping with the materials and design of the principal building of the lot.
- 5) **Landscape Requirement.**
  - a) All single-tenant monument signs shall include a planted and maintained landscape area at the base of the sign.
  - b) The minimum area of the landscape area shall be equal to half of the square footage of the sign area of the single-tenant monument sign.
  - c) Landscape areas shall be planted with one (1) shrub or native grass per every three (3) square feet of required landscape area.
- 6) **Other Provisions.**
  - a) The address of any building to which the single-tenant monument sign is associated shall be displayed on the single-tenant monument sign but shall not count towards maximum sign area.
  - b) The color scheme of a single-tenant monument sign must be consistent with the color scheme of the principal building unless an alternate color scheme is required by an approved comprehensive sign plan.

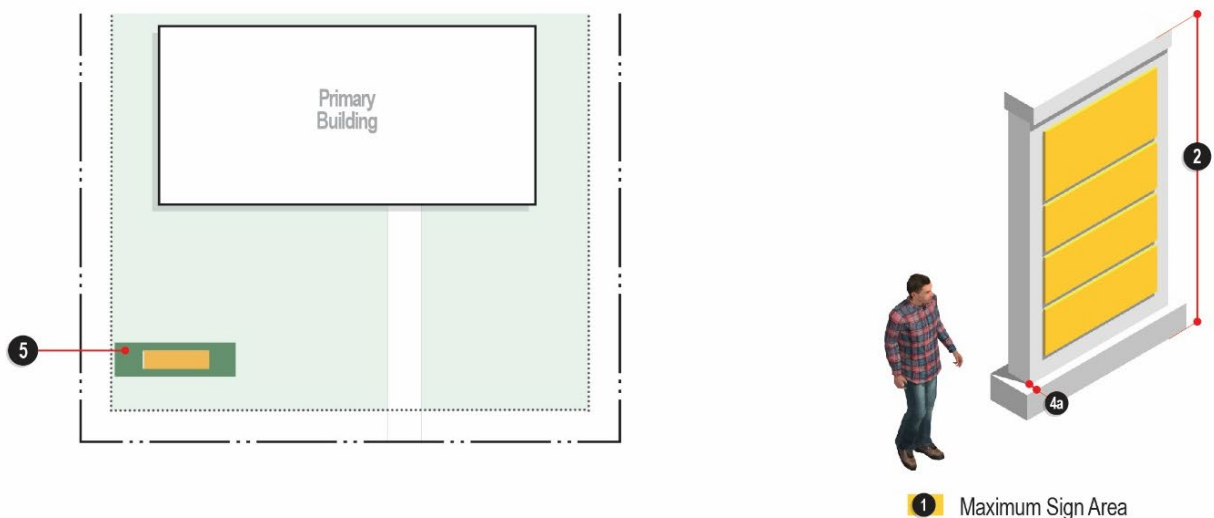
**Figure 6.5. Single-Tenant Monument Sign Standards**



C) **Multi-Tenant Monument Signs.**

- 1) **Sign Area.** The maximum sign area of a multi-tenant monument sign shall be sixty (60) square feet.
- 2) **Sign Height.** The maximum sign height of a multi-tenant monument sign shall be fourteen (14) feet.
- 3) **Number of Signs.** A maximum of one (1) multi-tenant monument sign shall be permitted per lot frontage except with approval from the Planning Commission.
- 4) **Sign Base.**
  - a) The base of a multi-tenant monument sign, including all structural components, shall extend horizontally from the sign face a minimum of ten (10) percent and a maximum of twenty-five (25) percent of the width of the sign face.
  - b) The base of multi-tenant monument sign shall be constructed from masonry, stone, or similar high-quality materials in keeping with the materials and design of the lot's principal building.
- 5) **Landscape Requirement.**
  - a) All multi-tenant monument signs shall include a planted and maintained landscape area at the base of the sign.
  - b) The minimum area of the landscape area shall be equal to half of the square footage of the sign area of the multi-tenant monument sign.
  - c) Landscape areas shall be planted with one (1) shrub or native grass per every three (3) square feet of required landscape area.
- 6) **Other Provisions.**
  - a) The address of any building to which the multi-tenant monument sign is associated shall be displayed on the multi-tenant monument sign but shall not count towards maximum sign area.
  - b) The color scheme of a multi-tenant monument sign must be consistent with the color scheme of the principal building unless an alternate color scheme is required by an approved comprehensive sign plan.

**Figure 6.6. Multi-Tenant Monument Sign Standards**



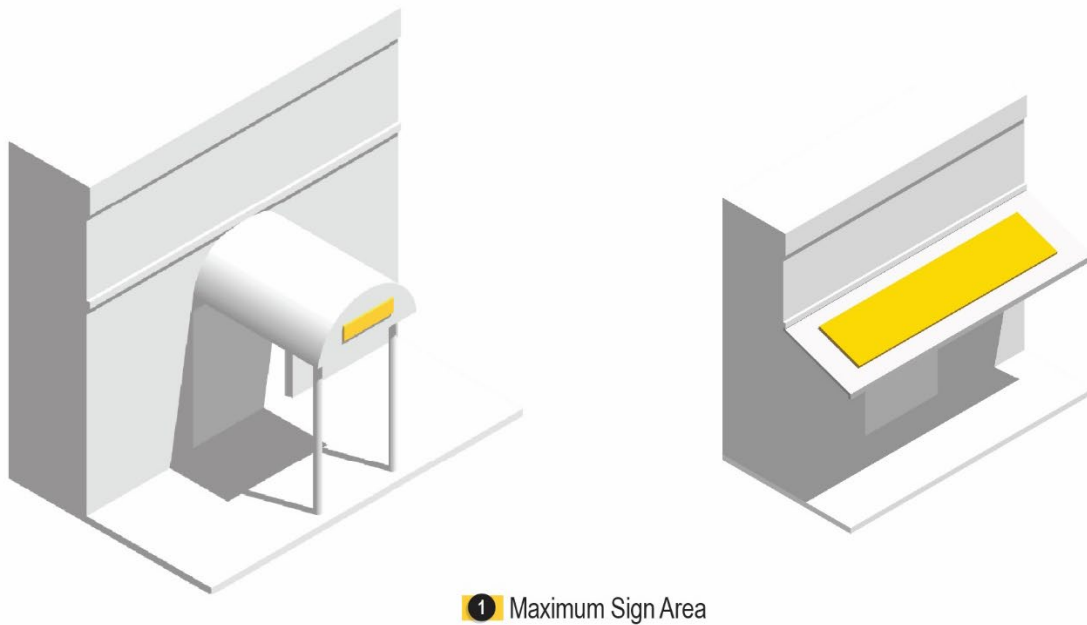
D) **Awning/Canopy Signs.**

1) **Sign Area.**

- a) The maximum sign area of an awning/canopy signs shall be forty (40) percent of the face of the awning/canopy upon which the sign shall be printed or affixed.
- b) The area of the awning/canopy sign shall count towards the maximum amount of sign area permitted for wall signs as detailed in Section 6-05(A)(1).

- 2) **Other Provisions.** Awning/canopy signs shall only be permitted on awnings/canopies extending above ground floor entrances or windows.

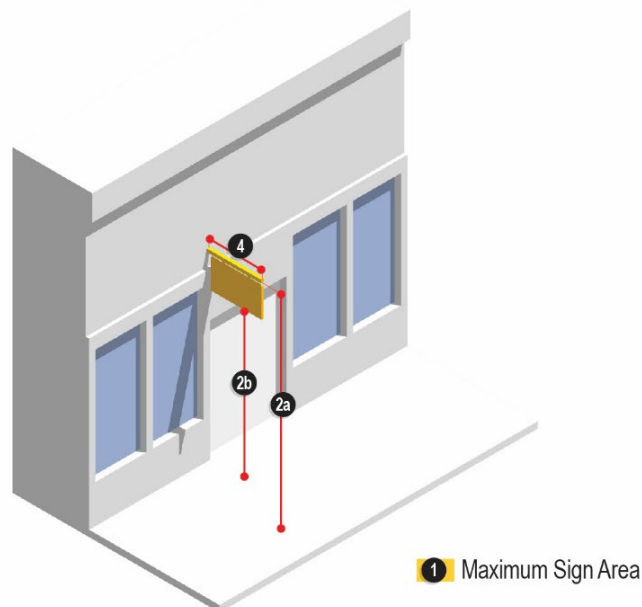
**Figure 6.7. Awning-Canopy Sign Standards**



E) **Projecting Signs.**

- 1) **Sign Area.** The maximum permitted sign area of projecting signs shall be four (4) square feet.
- 2) **Sign Height.**
  - a) Projecting signs shall not extend above the roofline of the building to which they are attached, or a maximum of twelve (12) feet, whichever is less.
  - b) Projecting signs shall maintain a minimum vertical clearance of eight (8) feet.
- 3) **Number of Signs.**
  - a) A maximum of one (1) projecting sign shall be permitted per ground floor tenant space.
  - b) A projecting sign shall not be displayed on the same building frontage as an awning/canopy sign.
- 4) **Projection.**
  - a) Projecting signs shall horizontally project a maximum of four (4) feet from the building to which they are attached.
  - b) Projecting signs erected over marquees shall be set back not less than two (2) feet from the outer edge of such marquee.
  - c) No projecting sign shall at the lowest point be less than ten (10) feet above the established grade immediately below.
- 5) **Other Provisions.**
  - a) Projecting signs shall not be internally illuminated.
  - b) Projecting signs may encroach upon, extend to, or project over a public right-of-way or easement. The property owner may be required to provide a release or hold harmless to the City prior to issuing permits for any such signs.

**Figure 6.8. Projecting Sign Standards**

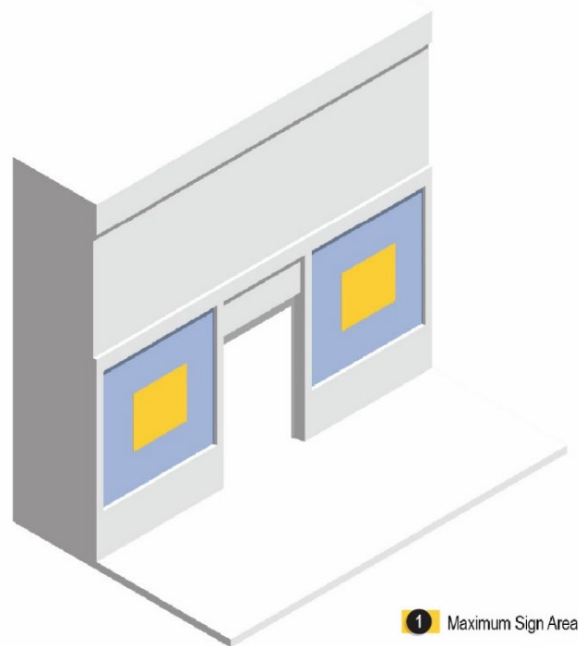


F) **Window Signs, Permanent.**

1) **Sign Area.**

- a) The maximum permitted aggregate sign area of a permanent window sign shall be twenty-five (25) percent of the square footage of the individual window on which the sign shall be located in the CBD and the WM Districts.
- b) The maximum permitted aggregate sign area of a permanent window sign shall be fifty (50) percent of the square footage of the individual window on which the sign shall be located in all other districts.
- c) The aggregate area of the permanent window sign(s) shall count towards the maximum amount of sign area permitted for wall signs as detailed in Section 6-05(A)(1).

**Figure 6.9. Window Sign Standards**



G) **On-Site Traffic Directional Signs.**

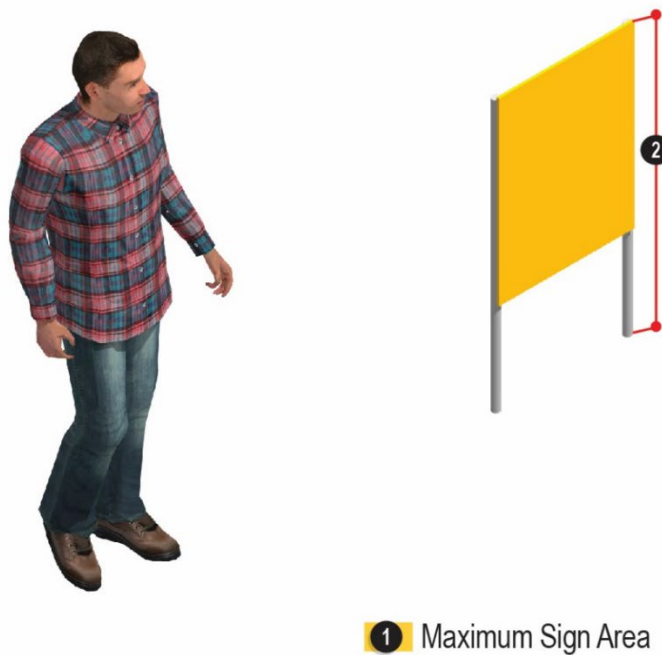
1) **Sign Area.**

- a) The maximum sign area of an on-site traffic directional sign shall be four (4) square feet.
- b) Permitted on-site traffic directional sign area shall not count towards the maximum allowed aggregate sign area as detailed in Section 6-02(A).

2) **Sign Height.** The maximum height of an on-site traffic directional sign shall be four (4) feet.

3) **Number of Signs.** The permitted number of on-site traffic directional signs shall be determined by the Zoning Administrator as necessary to assist in the safe movement of vehicular, bicycle, and pedestrian traffic on a property and between properties with vehicular cross access.

**Figure 6.10. On-Site Traffic Directional Sign Standards**





## 6-06. Temporary Sign Standards

### A) General Standards Temporary Signs.

#### 1) Temporary Signs Requiring a Permit.

- a) **Single-Tenant Building.** A maximum of two (2) permitted temporary signs, as permitted per district in Table 6-04(B), may be displayed concurrently on a lot with a single-tenant building.
  - b) **Multi-Tenant Building.**
    - (1) A maximum of one (1) permitted temporary sign, as permitted per district in Table 6-04(B), may be displayed per unit on a lot with a multi-tenant building concurrently.
    - (2) In no instance shall more than two (2) freestanding temporary signs be displayed concurrently.
- 2) **Display Period.** No temporary sign shall be displayed on any one lot or parcel for more than thirty (30) consecutive days for any one permit period and no more than two (2) non-consecutive display periods shall be allowed for any lot or parcel during any calendar year.
- 3) **Temporary Freestanding Signs.** Temporary freestanding signs shall include ground mounted banner, feather, post, and yard signs.
- a) Temporary freestanding signs shall be securely anchored into the ground or secured in a portable base designed for such function.
  - b) Temporary freestanding signs shall be maintained in good condition and shall not sag, lie on the ground, be torn, or otherwise kept in a disorderly state.

### B) Wall Mounted Banner Sign.

- 1) **Sign Area.** The maximum area of a wall mounted banner sign shall not be more than five (5) percent of the total area of the face of the wall to which the sign is to be affixed.
- 2) **Sign Height.** No wall mounted banner sign shall protrude above the highest roofline or the top of the parapet wall or mansard roof.
- 3) **Location.** Wall mounted banner signs shall be affixed to a building only.
- 4) **Projection.** Wall mounted banner signs shall be affixed flat against the building to which they are mounted.

Figure 6.11. Wall-Mounted Banner Sign Standards

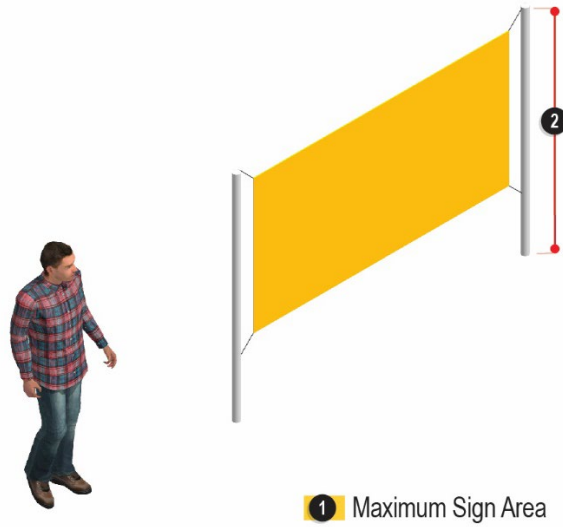


1 Maximum Sign Area

C) **Ground Mounted Banner Sign.**

- 1) **Sign Area.** The maximum sign area of a ground mounted banner sign shall be twenty (20) square feet.
- 2) **Sign Height.** The maximum sign height of a ground mounted banner sign shall be five (5) feet.

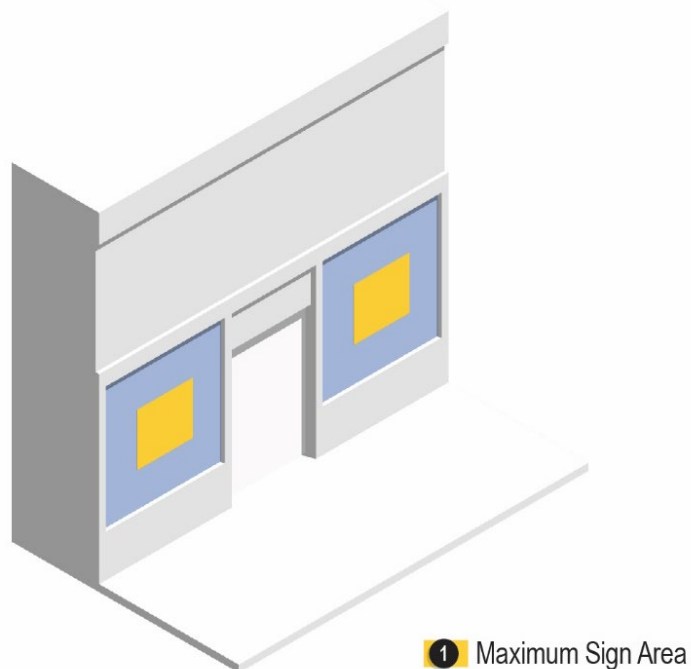
*Figure 6.12. Ground-Mounted Banner Sign Standards*



D) **Window Signs, Temporary.**

- 1) **Sign Area.** The aggregate maximum sign area of a temporary window sign shall be twenty-five (25) percent of the individual window on which the sign shall be affixed.

*Figure 6.13. Temporary Window Sign Standards*



E) **A-Frame/Sandwich Board Signs.**

- 1) **Sign Area.** The maximum sign area of an A-frame/sandwich board sign shall be six (6) square feet.
- 2) **Sign Height.** The maximum sign height of an A-frame/sandwich board sign shall be four (4) feet.
- 3) **Number of Signs.** One (1) A-frame/sandwich board sign shall be permitted per single-tenant building or unit of a multi-tenant building.
- 4) **Sign Separation.** Each A-frame/sandwich board sign shall be separated from another A-frame/sandwich board sign by at least twenty-five (25) feet.
- 5) **Location.**
  - a) A-frame/sandwich board signs shall be located on private property.
  - b) No part of any A-frame/sandwich board sign shall block points of ingress or egress.
  - c) A-frame/sandwich board signs shall be placed no more than one (1) foot from the wall of the building or unit of a building to which the sign is associated.
  - d) A-frame/sandwich board signs shall be placed no less than three (3) feet and no more than six (6) feet from the building entrance of the building or unit of a building to which the sign is associated.
- 6) **Other Provisions.** The display of A-frame/sandwich board signs shall only be permitted during the operating hours of the use to which the sign is associated.

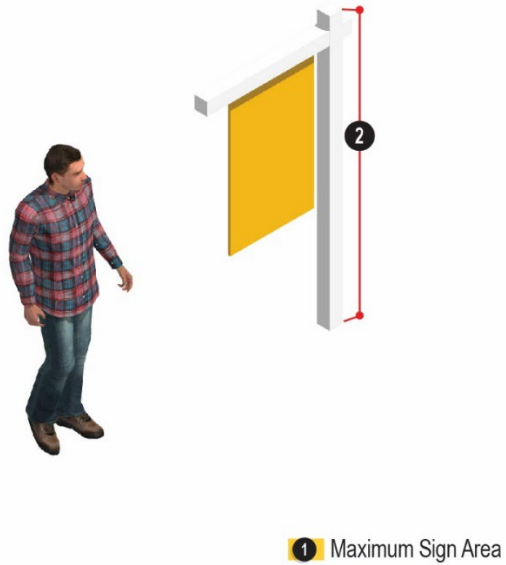
**Figure 6.14. A-Frame/Sandwich Board Sign Standards.**



F) **Post Signs.**

- 1) **Sign Area.** The maximum sign area of a post sign shall be six (6) square feet.
- 2) **Sign Height.** The maximum sign height of a post sign shall be six (6) feet.
- 3) **Number of Signs.** A maximum of one (1) post sign shall be allowed per lot frontage.

**Figure 6.1515. Post Sign Standards**



G) **Yard Signs.**

- 1) **Sign Area.** The maximum sign area of a yard sign shall be four (4) square feet.
- 2) **Sign Height.** The maximum sign height of a yard sign shall be three (3) feet.
- 3) **Number of Signs.** A maximum of two (2) yard signs may be displayed concurrently with the exception of thirty (30) days before and fifteen (15) days after a local, state, or federal election in which case a maximum of six (6) yard signs may be displayed.
- 4) **Exemption.** Yard signs in residential districts displayed for a period of forty-eight (48) hours or less shall be exempt from the requirements of this Section.

**Figure 6.1616. Yard Sign Standards**



**1** Maximum Sign Area

## 6-07. General Sign Standards

- A) **Interference With Traffic Signals.** No sign shall be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.
- B) **Location of Freestanding Signs.** Free standing signs shall include single-tenant monument signs, multi-tenant monument signs, on-site traffic directional signs, ground mounted banner signs, feather signs, post signs, and yard signs. Free standing signs shall:
- 1) Be located a minimum of five (5) feet from all property lines, rights-of-way, and utility easements;
  - 2) Not block points of ingress or egress;
  - 3) Not be placed in any sidewalk or pedestrian circulation system, and
  - 4) Not be located in a clear sight triangle as detailed in Section 5-06.
- C) **Illumination.**
- 1) **Location and Design of Light Source.** Whenever an external artificial light source is used for a sign, such source shall be located, shielded, and directed so as not to be directly visible from any public right-of-way or residential property. No receptacle or device housing a permitted light source for a sign shall protrude more than twelve (12) inches from the face of the sign or building to which it is attached except if such light source is ground mounted, locked in place, and cannot be redirected.
  - 2) **Level of Illumination.** In no event shall the illumination of any sign, resulting from any internal or external artificial light source, exceed the outdoor lighting standards established in Section 5-08. All artificial illumination shall be so designed, located, shielded, and directed as to prevent the casting of glare or direct light upon adjacent property or streets.
  - 3) **Signs Using LED Lights.** Signs utilizing LED lighting shall be allowed to serve public safety purposes and facilities only.
- D) **Wind Pressure, Allowable Stresses and Materials.**
- 1) All signs shall be constructed, erected, and maintained to safely withstand a wind pressure of at least thirty (30) pounds per square foot.
  - 2) The allowable stresses in chains, wire ropes, and steel guy rods and their fastenings shall not exceed one-quarter (1/4) of their ultimate strength.
  - 3) All ferrous chains, wire ropes, guy rods and their fastenings and anchor bolts shall be galvanized or be of other approved equivalent protection. All other ferrous parts of signs subject to corrosion shall be protected and maintained free from corrosion by approved corrosion-resistant coating.
- E) **Identification.** All signs hereafter erected shall bear the manufacturer's name, and the name trademark or other approval mark or symbol of the person erecting such sign.
- F) **Combustible Materials.** All signs shall be constructed of noncombustible materials, provided however, that the letters, decorations, and facings may be made of combustible plastics approved by the Zoning Administrator and Director of Inspection Services.

- G) **Electronic Message Boards.** Single-tenant and multi-tenant monument signs may incorporate electronic message boards in accordance with the following:
- 1) One-third (1/3) of the sign area must be permanent copy.
  - 2) The area of the sign devoted to an electronic message board shall be part of, not in addition to, the maximum sign area allowed.
  - 3) The electronic message format shall conform to the following requirements:
    - a) The message will contain a static message or image only and not have movement, or the appearance of movement, during the static display period.
    - b) The transition to change from one message or image to another shall be instant and not dissolve, fade, scroll, travel, or have similar transitions.
    - c) The message shall not change more frequently than once every ten (10) seconds.
  - 4) Electronic message boards must be equipped with a default mechanism that will stop the messaging or freeze the image in one position when a malfunction in electronic programming occurs.
  - 5) Electronic message boards shall be equipped with a sensor or other device that automatically determines the ambient illumination and is programmed to automatically dim according to light conditions.
  - 6) Illumination of electronic message signs shall not exceed 0.3 foot-candles over the ambient lighting conditions when measured at a distance equal to the square footage of the sign area.
  - 7) Applications shall be reviewed by the Zoning Administrator to determine that the sign placement does not interfere with traffic control devices within three hundred (300) feet of the sign or traffic circulation upon roadways. If deemed necessary by the Zoning Administrator a report from a traffic engineer certifying that the proposed sign does not interfere with the design characteristics of the traffic circulation and traffic control devices may be required.
  - 8) An application for Electronic Message Boards located outside the principal building shall require the approval of a Special Use Permit as specified in Section 8-06.

## 6-08. Prohibited Signs and Content

- A) **Purpose and Intent.** The City of New Buffalo finds that the uncontrolled use of certain sign types can be injurious to the public, and destructive to community character and property values, and that, as a result, prohibitions on sign types that have the previously mentioned qualities are necessary and desirable.
- B) **Prohibited Signs.** All signs not specifically allowed under this article are prohibited in the City. Further, the following types of signs are expressly prohibited:
- 1) Balloon signs,
  - 2) Pennants, streamers, non-special event banners,
  - 3) Feather signs,
  - 4) Any sign, including window signs, which have flashing, moving, or oscillating lights.
  - 5) Roof signs.
  - 6) Off-premises signs.
  - 7) Sign containing moving or animated parts, or with the appearance of having any moving or animated parts.
  - 8) Marquee signs;
  - 9) Pole/pylon signs;
  - 10) Signs attached to a utility pole, a tree, a fence, a standpipe, gutter, drain or fire escape;
  - 11) Signs erected so as to impair access to a roof;
  - 12) Signs located, erected or maintained upon, over or projecting into any public right-of-way or easement unless otherwise specifically allowed by this Article;
  - 13) Signs in conflict with traffic signals, vehicular or pedestrian travel, access to fire hydrants and fire lanes and exits, and other signs which reasonably impede or impair the public health, safety and welfare;
  - 14) Signs on vehicles, boats, or trailers parked so as to be visible from a public right-of-way;
  - 15) Signs hung across any street or alley;
  - 16) Signs employing exposed neon lights not completely covered by other acceptable sign materials;
  - 17) Signs painted on or otherwise affixed to fences;
- C) **Prohibited Content.**
- 1) The following content is prohibited without reference to the viewpoint of the individual speaker:
    - a) Text or graphics of an indecent or immoral nature or harmful to minors;
    - b) Text or graphics that advertise unlawful activity;
    - c) Text or graphics that are obscene, fighting words, defamation, incitement to imminent lawless action, or true threats; or
    - d) Text or graphics that present a clear and present danger due to their potential confusion with traffic control signs or signs that provide public safety information (for example, signs that use the words "Stop," "Yield," "Caution," or



"Danger," or comparable words, phrases, symbols, or characters in such a manner as to imply a safety hazard that does not exist).

- 2) The narrow classifications of content that are prohibited by this subsection are either not protected by the United States or Michigan Constitutions or are offered limited protection that is outweighed by the substantial governmental interests in protecting the public safety and welfare. It is the intent of the City Council that each paragraph of this Subsection be individually severable in the event that a court of competent jurisdiction were to hold one (1) or more of them to be inconsistent with the United States or Michigan Constitutions.

## 6-09. Safety, Maintenance, and Abandonment

- A) Every sign and all parts thereof, including base, copy, framework, supports, anchors, and wiring systems shall:
  - 1) Be constructed and maintained in compliance with the applicable codes of the City.
  - 2) Be kept in proper repair.
  - 3) When not galvanized or constructed of approved corrosion resistive, noncombustible materials, be painted, when necessary, to prevent corrosion, rust, peeling paint, and excessive fading.
- B) Failure of owners to keep signs maintained in good mechanical and visual repair shall be deemed a violation of this Ordinance.
- C) It shall be the duty and responsibility of the owner of every sign to maintain the immediate premises occupied by the sign in a clean condition, free of rubbish. Any landscaping surrounding the sign shall be kept trimmed and in good repair. If the landscaping installed at the time of sign approval dies, said landscaping shall be replaced immediately or as soon as weather permits.
- D) Every existing sign shall be subject to an inspection whenever the Zoning Administrator deems it necessary. In the event an inspection demonstrates that repairs, and/or maintenance are necessary, the sign owner shall be notified and required to complete said repairs and/or maintenance within thirty (30) days of notification. The Zoning Administrator is authorized to grant one (1) thirty (30) day extension, if, upon written request, it is deemed necessary due to extenuating circumstances.
- E) If the Zoning Administrator shall find that any sign is unsafe or unsecure, or is a threat to the public safety, or was constructed, erected, or maintained after the adoption of and in violation of the provisions of this Ordinance, they shall give written notice to the sign owner. Such notice shall specify the manner in which the sign is unsafe or in violation of this Ordinance.
- F) Sign copy shall be removed, and in the case of a wall sign the building façade shall be repaired, by the sign owner when the use which the sign is associated is no longer conducted on the premises. The sign copy shall be removed within thirty (30) days of when the use ceases to operate. If the owner fails to remove the sign copy, the Zoning Administrator or their designee shall give the owner thirty (30) days written notice to remove it. Failure to comply with the notice shall be deemed a violation of this Ordinance.

## Article 7. Planned Unit Development

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### 7-01. Intent and Purpose

The purpose of the regulations, standards, and criteria contained in this Article is to provide an alternative procedure under which land can be developed or redeveloped with innovation, imagination, and creative architectural design, when sufficiently justified under the provisions of this Article. The objective of the Planned Unit Development standards is to encourage a higher level of design and amenity than is possible to achieve under otherwise applicable zoning regulations. The end result should fulfill the objectives of City plans and policies, including but not limited to the Master Plan, while departing from the strict application of the regulations of this Ordinance. The Planned Unit Development standards are intended to permit and encourage such flexibility and to accomplish the following purposes:

- A) To stimulate creative approaches to the commercial, residential, and mixed-use development of land;
- B) To provide for more efficient use of land;
- C) To preserve natural features and provide open space areas and recreation areas in excess of that required under existing zoning regulations;
- D) To develop new approaches to the living environment through variety in type, design and layout of buildings, transportation systems, and public facilities;
- E) To unify buildings and structures through design;
- F) To promote long term planning, pursuant to the Master Plan and other relevant plans and City policies, which will allow harmonious and compatible land uses or combination of uses with surrounding areas.

## 7-02. General Provisions

- A) The following may only approved as a Planned Unit Development in accordance with this Ordinance:
  - 1) Any development containing non-residential uses that would result in ten thousand (10,000) square feet or more of gross floor area.
  - 2) Any development in areas identified as Conservation Development in the future land use map of the Master Plan.
- B) Any development containing uses other than single-family residential uses may be approved as a Planned Unit Development.
- C) Each Planned Unit Development should be presented and judged on its own merits. It shall not be sufficient to base justification for approval of a Planned Unit Development solely upon an already existing Planned Unit Development except to the extent such Planned Unit Development has been approved as part of a development master plan.
- D) The burden of providing evidence and persuasion that any Planned Unit Development is necessary and desirable shall rest with the applicant.

## 7-03. Planned Unit Development Relation to Base District Standards

- A) A Planned Unit Development, if approved, shall constitute an overlay district, and all base district designations shall be maintained.
- B) A Planned Unit Development, if approved, may incorporate modifications to the base district standards that shall become part of the overlay district. All such modifications shall be referred to as site development allowances.
- C) Notwithstanding any limitations on waivers or modifications of standards contained elsewhere in this Ordinance, site development allowances may be approved provided the applicant specifically identifies each site development allowance in the Planned Unit Development application and demonstrates how each site development allowance:
  - 1) Would be compatible with surrounding development;
  - 2) Is necessary for development of the site in accordance with the purposes of this section; and
  - 3) Incorporates a minimum of one (1) of the modification standards detailed in Section 7-04.
- D) All approved site development allowances shall be delineated in the ordinance approving the Planned Unit Development and shall be considered the standards of the Planned Unit Development overlay district as it applies to the subject property.

## 7-04. Modification Standards

An applicant seeking a site development allowance shall be required to justify each request through the provision of tangible benefits to the City of New Buffalo by meeting a minimum of one (1) of the modification standards detailed below per requested site development allowance.

- A) **Landscape Conservation and Enhancement.** The Planned Unit Development preserves, restores, or enhances landscape elements, trees, and natural features, such as rivers, streams, ponds, groves, and landforms.
- B) **Sustainable Design.** The Planned Unit Development is designed with demonstrable reductions in energy consumption and/or stormwater management as a result of methods of site design and building location, architectural design of individual buildings, and landscaping design.
- C) **Public Gathering Space.** The Planned Unit Development includes public gathering space, the amount of which is proportional to the size of buildings or number of dwelling units. The public gathering space is activated through the use of elements or features such as moveable tables and chairs, a fountain or other water feature, a sculpture or other public art feature, benches, seat walls, raised landscape planters, or pedestrian scaled and celebratory lighting such as string lights.

The public gathering space is integrated into the overall design of the Planned Unit Development and has a direct functional or visual relationship to the main building(s) and is not of an isolated or leftover character.

- D) **Mix of Uses.** The Planned Unit Development is comprised of a mix of non-residential uses and/or a mix of two (2) or more housing unit types.
- E) **Placemaking.** The Planned Unit Development has a distinctive identity and brand that is carried through design features in a manner that fosters a cohesive visual character for the public areas, incorporated in the design of features including but not limited to sign design, unique streetscape elements, architectural features, the creation of public gathering spaces, the incorporation of natural areas, parks, and trails, and other elements of site design.
- F) **Affordability.** The Planned Unit Development includes at least fifteen (15) percent of the total residential dwellings deed restricted for households that make less than or equal to eighty (80) percent of the area median income as defined by the US Department of Housing and Urban Development.
- G) **Universal Design.** The Planned Unit Development includes buildings and site features designed with accessible features such as level access from the street and/or zero entry thresholds.
- H) **High-Quality Building Materials.** The Planned Unit Development uses time- and weather-tested building materials that are of a higher quality than what is otherwise required by this Ordinance.

### 7-05. Standards of Review

The following standards for review shall be utilized in the review of a Planned Unit Development application as a whole, including any requested site development allowances and the modification standards proposed to justify those requests. No application for a Planned Unit Development shall be approved unless the City Council finds that the application meets all of the following standards:

- A) **Plan and Policy Alignment.** The Planned Unit Development is consistent with the goals, objectives, and policies set forth in the Master Plan and other adopted plans and policy documents of the City.
- B) **Placemaking.** The Planned Unit Development has a distinctive identity and brand that is carried through the sign designs, unique streetscape features, architecture, public gathering spaces, open spaces, etc.
- C) **Integrated Design with Identifiable Centers and Edges.** The Planned Unit Development shall be laid out and developed as a unit in accordance with an integrated overall design, in which the various included land uses function as a cohesive whole and support one another. The design shall provide identifiable centers, which form focus areas of activity in the development, and edges, which define the outer borders of the development, through the harmonious grouping of buildings, uses, facilities, public gathering spaces, and open space.
- D) **Public Welfare.** The Planned Unit Development is designed, located, and proposed to be operated and maintained so that it will not impair an adequate supply of light and air to adjacent property and will not substantially increase the danger of fire or otherwise endanger the public health, safety, and welfare.
- E) **Compatibility with Adjacent Land Uses.** The Planned Unit Development includes uses which are generally compatible and consistent with the uses of adjacent parcels. If the uses are not generally compatible, all adverse impacts shall be mitigated through screening, landscaping, public open space, and other buffering features that protect uses within the development and surrounding properties.
- F) **Impact on Public Facilities and Resources.** The Planned Unit Development is designed so that adequate utilities, road access, drainage, and other necessary facilities will be provided to serve it.
- G) **Archaeological, Historical or Cultural Impact.** The Planned Unit Development does not substantially adversely impact an archaeological, historical, or cultural resource, included on the local, state, or federal register, located on or off the parcel(s) proposed for development.

- H) **Drives, Parking and Circulation.** The Planned Unit Development makes adequate provision to provide necessary parking. Principal vehicular access is from dedicated public streets, and access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. With respect to vehicular and pedestrian circulation (including walkways, interior drives, and parking), special attention has been given to the location and number of access points to public streets, the width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, adequate provision for service by emergency vehicles, and arrangement of parking areas that are safe, convenient, and do not detract from the design of proposed buildings and structures and the neighboring properties. Access points are limited through the use of cross access connections.

## 7-06. Application Procedure

- A) **Preapplication Conference.** The applicant shall contact the Zoning Administrator to schedule a preapplication conference with the Planning Commission. At this conference, the Planning Commission shall inform the applicant of information needed, and the process to be followed for review. A fee is not required for this conference. No action shall be taken at the preapplication conference, nor shall any statements made at the conference be considered binding.
- B) **Notice Required.** Written notice and published notice shall be provided as specified in Section 8-04(B) in advance of the Planning Commission public hearing.
- C) **Planning Commission Public Hearing.** A public hearing on the proposed Planned Unit Development shall be conducted by the Planning Commission. Notice of such hearing shall contain:
- 1) A general description of the Planned Unit Development project being requested.
  - 2) The boundaries of the property which is subject to the request.
  - 3) The date, time, and location of the public hearing.
  - 4) The location and deadline for written comments to be received concerning the request.
- D) **Planning Commission Recommendation.** Within a reasonable time following the public hearing, the Planning Commission shall make a recommendation regarding the Planned Unit Development to City Council. The Planning Commission shall base its recommendation on the standards set forth in Section 7-05, and the required written report shall document findings of fact to support the Planning Commission recommendation to City Council and any recommended conditions. The Planning Commission shall make one of the following recommendations to the City Council:
- 1) Recommend approval of the Planned Unit Development;
  - 2) Recommend approval of the Planned Unit Development with conditions;
  - 3) Recommend denial of the Planned Unit Development.
- E) **City Council Action.** Within a reasonable time after the Planning Commission public hearing, the City Council shall consider the request for Planned Unit Development and the Planning Commission's recommendation and take one of the following actions following a public hearing noticed per Section 8-04(B):
- 1) Approve the Planned Unit Development;
  - 2) Approve the Planned Unit Development with Conditions;
  - 3) Deny the Planned Unit Development;
  - 4) Refer the Planned Unit Development back to the Planning Commission for further review.
- F) The Planned Unit Development approval shall not take effect until all conditions imposed as part of the City Council action have been agreed to, in writing, by the applicant and applicable changes made to the final site plan.

Figure 7.1. Planned Unit Development Procedure



## 7-07. Amendments to Approved Planned Unit Developments

- A) **Determination.** Upon receiving an application to amend a previously approved Planned Unit Development, including the information required by the Zoning Administrator, the Zoning Administrator shall determine whether the amendment is a major amendment, or a minor amendment based on the criteria detailed in Section 7-07 (B) below.
- B) **Major Amendment.** A major amendment is any proposed change to an adopted Planned Development that results in one (1) or more of the following changes:
- 1) Increase in density;
  - 2) A five (5) percent increase in impervious surface;
  - 3) Reduction of open space by more than five (5) percent;
  - 4) Modification of the proportion of housing types;
  - 5) Increase in the approved gross floor area by more than five hundred (500) square feet;
  - 6) Alteration of the alignment of roads, utilities, or drainage;
  - 7) Modification of any other site feature inconsistent with any standard or condition imposed by the City Council in approving the Planned Unit Development, as determined by the Zoning Administrator.
- C) **Minor Amendment.** A minor amendment is any proposed change to an approved Planned Unit Development that is consistent with the standards and conditions upon which the Planned Unit Development application was approved and Planned Unit Development adopted, which does not alter the concept or intent of the Planned Unit Development and is not considered a major amendment as detailed in Section 7-07(B).
- D) **Approval Processes.**
- 1) A major amendment to an adopted Planned Unit Development shall follow the procedure set in Section 8-04.
  - 2) A minor amendment to an approved Planned Unit Development may be approved by the Zoning Administrator.

## Article 8. Administration and Enforcement

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### 8-01. General Application Requirements

#### A) Authorization.

- 1) An application for any zoning procedure, except for zoning text or map amendments, may be filed only by the owner or lessee of the property, or by an agent or contract purchaser specifically authorized by the owner to file such application.
- 2) An application for a zoning text or map amendment may be filed by an owner, lessee, agent, or contract purchaser of property located in the City or by the City Council, Planning Commission, or the Zoning Administrator.

#### B) Filing.

- 1) An application for any zoning procedure shall be filed with the Zoning Administrator.
- 2) The application shall be on forms provided by the City and shall be filed in such number as the instructions provide.
- 3) All plans shall be at a scale sufficient to permit a clear and precise understanding of the proposal.
- 4) The application shall include all information, plans, and data, specified in the application requirements manual.



C) **Completeness.**

- 1) The Zoning Administrator shall determine whether the application is complete.
- 2) If the application is not complete, the Zoning Administrator shall notify the applicant of any deficiencies and shall take no steps to process the application until the deficiencies are remedied.
- 3) Once the Zoning Administrator has determined that the application is complete, the application shall be reviewed and acted upon by the Zoning Administrator or scheduled for consideration at the appropriate meeting.

D) **Fees.**

- 1) Every application shall be accompanied by the required filing fee as established and modified, from time to time, by City Council.
- 2) The failure to pay such fee when due shall be grounds for refusing to process the application and for denying or revoking any permit or approval for the subject property.
- 3) No fees shall be waived and no fees shall be refunded except those authorized by the City Council.
- 4) The City Council shall adopt the City Fee Schedule by resolution.

E) **Withdrawal of Application.** An applicant shall have the right to withdraw an application at any time prior to the decision on the application by a City official, commission, or board. Such withdrawal shall be made in a written statement to the City.

F) **Successive Applications.**

- 1) A subsequent application shall not be reviewed or heard within one (1) year of the date of denial unless there is substantial new evidence available or if a significant error in law or of fact affected the prior denial.
- 2) Such subsequent application shall include a detailed statement of the grounds justifying its consideration.
- 3) The Zoning Administrator shall make a determination as to whether the subsequent application is substantially the same as the original application.
- 4) If the Zoning Administrator finds that there are no grounds for consideration of the subsequent application, they shall summarily and without hearing deny the request.

## 8-02. Zoning Procedures Responsibilities

- A) **Zoning Administrator.** Except where herein otherwise stated, the provisions of this Ordinance shall be administered by the Zoning Administrator, or such other official or officials as may be designated by the City Council. The Zoning Administrator shall have the power to:
- 1) Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this ordinance.
  - 2) Review applications for and issue Zoning Permits and Certificates of Occupancy.
  - 3) Issue and serve appearance tickets on any person with respect to any violation of this Ordinance where there is reasonable cause to believe that the person has committed such an offense.
  - 4) Maintain and safely keep copies of all plans other than for single-family dwellings and fees submitted with such application, and the same shall form a part of the records of the Zoning Administrator's office and shall be available to the Council and all other officials of the City.
  - 5) Perform such other functions necessary and proper to enforce and administer the provisions of this Ordinance.
- B) **Building Inspector.** The Building Inspector shall have the following powers and duties with regard to this Ordinance:
- 1) To review requests for and to issue building permits and sign permits;
  - 2) To conduct inspections of buildings and structures to determine compliance with the terms of this Ordinance and other applicable ordinances;
  - 3) To provide technical assistance to the City Council and other bodies with authority under this Ordinance.
- C) **Zoning Board of Appeals.**
- 1) **Creation and Membership.** There is hereby created a Zoning Board of Appeals, herein referred to as the "Board of Appeals," the membership, powers and duties of which are prescribed in this Ordinance.
  - 2) **Composition.**
    - a) **Members.** The Zoning Board of Appeals shall consist of five (5) members,
      - (1) One (1) shall be a member of the Planning Commission with appointment by the City Council coinciding with that person's term on the Planning Commission, and
      - (2) One (1) other member may be a member of City Council, to be appointed by City Council and coinciding with that person's term on City Council, and
      - (3) The remaining three (3) members shall be appointed by the City Council. One (1) of said members shall be appointed for a one-year term, another one (1) of said members shall be appointed for a two-year term, and another one (1) member shall be appointed for a full three-year term. After initial appointments each member shall serve three-year terms.
    - b) **Alternate Members.** In addition, the City Council may appoint two (2) alternate members who shall serve three-year terms. All of the regular and alternate members of the Board of Appeals shall be citizens of the United States and primary residents of the City.
    - c) **Elected Officers and Employees Prohibited.** No elected officer or employee of the City shall be a member of the Board of Appeals.

- d) **Vacancy.** Any vacancy in the Board of Appeals shall be filled by the City Council for the remainder of the unexpired term.
- 3) **Rules of Procedure.** The Board of Appeals shall annually elect its own Chairperson, Vice Chairperson and Secretary. Meetings of the Board of Appeals shall be held at the call of the Chairperson and at such times as the Board of Appeals may determine by rule. All meetings of the Board of Appeals shall be open to the public.
- 4) **Meetings.**
  - a) **Meeting Procedures.** All meetings of the Board of Appeals shall be held at the call of the Chairperson and at such times as such Board of Appeals may determine. All hearings conducted by the Board of Appeals shall be open to the public.
  - b) **Minutes.** The Zoning Administrator shall keep minutes of meeting proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating so and shall also keep records of its hearings and other official action.
  - c) **Quorum.** Four (4) members of the Board of Appeals shall constitute a quorum for the conduct of its business.
  - d) **Subpoena Allowed.** The Board of Appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, and compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.
- 5) **Jurisdiction.** The Board of Appeals shall not have the power to make any change in the terms of this Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation, and to authorize a variance as defined in this section and the laws of the State of Michigan. The Board of Appeals shall not have the authority to hear appeals from a decision made in respect to any special land use, planned unit development, or rezoning. The powers of the Board of Appeals include:
  - a) **Hearing of Appeals.** To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or any other administrative official in carrying out or enforcing any provisions of this Ordinance;
  - b) **Granting of Variances.** A variance from the specific requirements of this Ordinance may be granted by the Board of Appeals in accordance with the requirements and procedures of Section 8-07;
  - c) **Zoning Ordinance Interpretation.** The Board of Appeals may interpret the provisions of this Ordinance to carry out the intent and purposes of the Ordinance where the meaning of the provisions is uncertain as specified in Section 8-12.
- D) **Planning Commission.** With respect to this Ordinance, the Planning Commission shall:
  - 1) Hear, consider, and make a written report with findings of fact and recommendations to the City Council on all applications for Site Plan Review, Map and Text Amendments, Special Uses, and Planned Unit Developments;
  - 2) Make decisions on other matters referred to it upon which it is required to pass under this Ordinance;
  - 3) Assist in the development, review, and amendment of the Master Plan, as requested by City Council.
- E) **City Council.** The City Council shall, with respect to this Ordinance, make final decisions on applications for Text and Map Amendments, Planned Unit Development, and Special Uses, with or without conditions. City Council shall also formally approve the Master Plan as recommended by the Planning Commission in accordance with state statute.

### 8-03. Administrative Procedures

#### A) Building Permits.

- 1) No building, structure, or commercial sign shall be erected, altered, moved, or substantially repaired unless a building permit shall have been first issued for such work.
- 2) No building permit shall be issued for the erection, alteration, moving, or use of any building or structure or for the use of any land which is not in accordance with all provisions of this Ordinance.
- 3) The holder of every building permit for the erection, alteration, repair, or moving of any building or structure shall notify the Building Inspector immediately upon completion of the work authorized by the permit for a final inspection.
- 4) Prior to issuance of a building permit, the Building Inspector may require any information specified in Appendix A which the Building Inspector determines to be necessary in order to properly evaluate the permit request and determine compliance with the applicable requirement of this Ordinance.

#### B) Certificate of Occupancy.

- 1) No vacant land shall be used and no existing use of land shall be changed to a different class of use unless a certificate of occupancy is first obtained for the new or different use.
- 2) No building or structure which is hereafter erected or altered shall be occupied or used unless and until a certificate of occupancy shall have been issued for such building or structure.
- 3) Certificates of occupancy, as required by the currently enforced Building Code for the City, shall also constitute certification of compliance with this Ordinance.
- 4) A record of all certificates of occupancy issued shall be kept on file in the office of the Zoning Administrator and copies shall be furnished upon request to any person owning or renting the property which is the subject of the certificate.
- 5) Applications for certificates of occupancy shall be made in writing to the Building Inspector on a form furnished by the City. Certificates shall be issued within ten (10) days after receipt of such application if the building or structure or use of land is in accordance with the provisions of this Ordinance and the other applicable ordinances of the City.

#### C) Zoning Permit.

- 1) **Purpose and Applicability.** In all districts a zoning permit shall be required for:
  - a) Any new use or change of use of a building, structure, or land not involving the construction of new buildings or structures, alteration of existing buildings or structures, or other exterior changes to a property;
  - b) The construction of new or alteration to the building footprint of any existing single-family detached or duplex development or construction of any buildings, structures, or uses accessory to a single-family detached or duplex development.
- 2) **Zoning Administrator Review and Action.**
  - a) The Zoning Administrator shall review the zoning compliance permit application to determine whether it conforms to all applicable provisions of this Ordinance.
  - b) Based upon their review the Zoning Administrator shall:
    - 1) Issue the Zoning Permit;
    - 2) Refer the Zoning Permit application to the Planning Commission for review; or

3) Deny the Zoning Permit.

- 3) **Expiration and Lapse of Approval.** A Zoning Permit shall expire if within six (6) months of the date of issuance of a Zoning Permit the use has not commenced or the use has not occupied the structure or location. Upon the showing of a valid cause by the applicant, the Zoning Administrator may grant an extension of such Zoning Permit for a period not to exceed six (6) months.
- 4) **Enforcement.** Failure to comply with this Section relating to Zoning Permits may be enforced pursuant to this Ordinance, or any other provision of law including, but not limited to, revocation of the Zoning Permit, injunction, or other civil suit.

D) **Temporary Use Permit.**

- 1) **Purpose.** A Temporary Use Permit shall be required prior to the establishment of a temporary use per Section 8-03(D) of this Ordinance to certify compliance with all applicable regulations of this Ordinance and the applicable sections of the building code as enforced by the City.
- 2) **Temporary Use Permit Review Criteria.** To approve the issuance of a Temporary Use Permit, the Zoning Administrator shall make an affirmative finding that all applicable provisions of this Ordinance, the applicable building code, and all other City ordinances are met.
- 3) **Zoning Administrator Action.** The application shall be reviewed by the Zoning Administrator to ensure the application conforms to the criteria in Subsection 2 above. Based upon their review, the Zoning Administrator shall:
  - a) Issue the Temporary Use Permit,
  - b) Issue the Temporary Use Permit with conditions, or
  - c) Deny the Temporary Use Permit.

E) **Sign Permit.**

- 1) **Purpose.** A Sign Permit shall be required prior to the display, construction, erection, or alteration of a sign and its structural components on any property. All signs must comply with Article 6, and the applicable sections of the City's building code as adopted. All electrical installations associated with the erection and installation of a sign must be done in accordance with the enforced Building and Electrical Codes.
- 2) **Applicability.** No person shall erect, alter, place or permit to be placed, or replace any sign without first obtaining a building permit, unless such sign is specifically exempted as provided in Article 6.
- 3) **Exemptions.** Signs exempt from a permit are detailed in Section 6-04.
- 4) **Sign Permit Review Criteria.** To approve the issuance of a Sign Permit, the Building Inspector shall make an affirmative finding that all applicable provisions of this Ordinance, the applicable building code, and all other City ordinances are met.
- 5) **Building Inspector Action.** The application shall be reviewed by the Building Inspector to ensure the application conforms to the applicable standards of Article 6. Based upon their review, the Building Inspector shall:
  - a) Issue the Sign Permit,
  - b) Issue the Sign Permit with conditions, or
  - c) Deny the Sign Permit.

### 8-04. Summary of Board/Commission Review and Approval Procedures

- A) **Summary of Board/Commission Review and Approval Procedures.** Table 8-04(A) summarizes the Board and Commission Review and Approval procedures and identifies the appropriate boards or commissions that serve as recommending or decision-making bodies.

Table 8-04(A): Summary of Board/Commission Review and Approval Procedures			
Petition Review Procedure	Planning Commission	City Council	Zoning Board of Appeals
Site Plan Review	R*	D	
Special Use	R*	D	
Variance	R*		D*
Map Amendment		D	
Text Amendment	R*	D	
Comprehensive Sign Plan	D*		
Private Roads Permit	D*		
Interpretation			D*
Appeal			D*
<b>Key:</b>			
R = Recommending Body			
D = Decision Making Body			
* = Public Notice Required			

B) **Notice Types.**

- 1) **Written Notice.** Notice shall be written or mailed as required in state statute to all persons to whom real property is assessed within three-hundred (300) feet of the property that is the subject of the request and to the occupants of all structures within three-hundred (300) feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. The notice describing the nature of the request, stating when and where the request shall be considered, and indicating when and where written comments will be received shall be given not less than fifteen (15) days before the date the request will be considered.
- 2) **Published Notice.** Notice of the public hearing shall be published in a newspaper of general circulation in the local unit of government not less than fifteen (15) days before the date of the hearing.

- C) **Public Notice Requirements by Procedure.** Table 8-04(C) summarizes the requirements for public notices per each Board and Commission review and approval procedure.

Table 8-04(C): Notice Requirements by Procedure		
Procedure	Written Notice	Published Notice
Special Use	●	●
Variance	●	●
Map Amendment	●	●
Text Amendment		●
Comprehensive Sign Plan	●	●
Appeal	●	●
<b>Key</b>		
● = Required form of notice		

## 8-05. Site Plan Review

- A) **Purpose.** The purpose of this section is to require and review those documents or drawings as specified in the Ordinance, to ensure that a proposed land use or development is in compliance with this Ordinance, other local ordinances, state statutes, and federal statutes. And furthermore, its purpose is to ensure that development taking place within the City is properly designed, safe, efficient, environmentally sound, and developed in such a manner as to protect adjacent properties from adverse impacts.
- B) **Applicability.**
- 1) Site plan review shall be required for all construction of new buildings and structures and alterations to the building footprint of existing buildings or structures.
  - 2) Single-family detached or duplex development that is permitted by right in the governing zoning district in which they are located shall not require site plan review.
  - 3) The establishment of new uses or change of use allowed by-right in the governing district not involving construction of or alteration to the footprint of existing structures shall not require site plan review.
- C) **Process.**
- 1) **City Staff Review.** The Zoning Administrator shall review the site plan for completeness, and shall obtain comments, as the Zoning Administrator considers necessary, from the following staff members:
    - a) Department of Public Works,
    - b) Water Department,
    - c) Police Department
    - d) Fire Department,
    - e) Other City departments or consultants.
  - 2) **Transmittal to the Planning Commission.** Once the Zoning Administrator determines that the site plan is complete, the Zoning Administrator shall transmit the site plan, along with comments from City departments and consultants to the Planning Commission at least two (2) weeks prior to the next meeting. The Zoning Administrator shall not be required to submit any site plan for review which was submitted less than forty (40) days prior to the Planning Commission meeting when the review will occur.
  - 3) **Planning Commission Recommendation.** The Planning Commission shall consider the site plan and shall recommend the City Council:
    - a) Approve the site plan, as submitted, if all applicable requirements and standards have been met;
    - b) Approve the site plan with conditions; or
    - c) Deny the site plan if applicable requirements and standards have not been met. All recommendations of the Planning Commission with regard to site plans shall be accompanied by written findings of fact to support its position for each item under Section 8-05(D) standards for site plan review.
    - d) The reasons for the Planning Commission's action, along with any conditions that may be attached, shall be stated in the meeting minutes and a copy provided to the applicant.

- 4) **City Council Action.** For each site plan application, City Council shall consider the Planning Commission's recommendation and shall:
  - a) Approve the site plan,
  - b) Approve the site plan with conditions, or
  - c) Deny the application.
  
- 5) **Record of Action.** If approved, two (2) copies of the final site plan shall be signed and dated by the Secretary of the Planning Commission and the applicant. One (1) copy shall be kept on file with the City and one copy shall be returned to the applicant or its designated representative.
  
- D) **Standards of Review.** To promote orderly development which is safe, efficient, attractive, sensitive to environmental concerns, and generally promotes the welfare of the City's citizens, all developments and uses, in addition to meeting applicable specific standards as identified in this Ordinance, shall also meet the following general standards.
  - 1) **Ordinance and Master Plan Purposes and Intent.** The proposed use and development will be in harmony with the purposes for which this Ordinance was enacted and the regulations of the governing district and with the Master Plan.
  - 2) **Soil Preservation.** Site plans shall be developed to prevent or minimize problems with soil erosion or sedimentation. Submission of a Soil Erosion Permit approved by Berrien County shall be required as applicable.
  - 3) **Privacy Provisions.** The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of occupants.
  - 4) **Emergency Vehicle Accessibility.** All buildings or groups of buildings shall be so arranged as to permit emergency vehicle accessibility. Fire lanes shall be provided as deemed necessary by the Fire Chief to provide adequate fire protection.
  - 5) **Compatibility With Existing or Planned Streets and Pathways.** The arrangement of streets, sidewalks, and other path systems shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern in the Master Plan, Berrien County Transportation Plan, or other City or County policy document shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in any formally-adopted street plan or planned right-of-way.
  - 6) **Efficient and Safe Traffic Systems.** Street systems shall be designed to be as efficient as possible, and in compliance with commonly accepted traffic engineering standards for safety.
  
- E) **Amendments to Approved Site Plans.** A site plan may be amended based upon whether the desired amendment is classified as a major or minor amendment to the site plan. Major amendments shall require review and approval by the Planning Commission. Minor amendments shall only require the approval of the Zoning Administrator.
  - 1) **Major Amendments.** Major amendments shall include one (1) or more of the following:
    - a) A change in the original concept of the development;
    - b) A change in the use or character of the development;
    - c) A change in the type of dwelling unit;
    - d) An increase in the number of dwelling units;
    - e) An increase in floor area of more than ten (10) percent;



- f) A change in the basic layout or design of the project;
  - g) A change in the character, function, or location of any street or access driveway;
  - h) A reduction in the amount of open space, or relocation of open space areas;
  - i) The movement of a building footprint by more than ten (10) feet.
- 2) **Minor Amendments.** Minor amendments shall include one (1) or more of the following:
- a) A change in floor area of ten (10) percent or less;
  - b) Additions to parking lots of up to ten (10) spaces;
  - c) The movement of a building footprint of ten (10) feet or less;
  - d) Substitutions in type of landscape plantings not to exceed twenty (20) percent of the total amount of landscape materials; provided such materials are comparable to those they would replace;
  - e) Accessory buildings having less than one-thousand (1,000) square feet of area for commercial, industrial, or institutional uses.

## 8-06. Special Uses

- A) **Purpose.** The intent of this section is to provide regulations and a more detailed review of uses that in many cases would be compatible with the uses permitted by right in a given district, but which, by reason of the special nature of such uses or their location in relation to neighboring properties, would not always be so. Because of their unique characteristics, it is often necessary to place restrictions or conditions associated with the approval of special uses to ensure their compatibility with surrounding development.
- B) **Procedure.**
- 1) **City Staff Review.** The Zoning Administrator shall review the application for completeness, and shall obtain comments, as the Zoning Administrator considers necessary, from the following staff members:
    - a) Department of Public Works,
    - b) Water Department,
    - c) Police Department
    - d) Fire Department,
    - e) Other City departments or consultants.
  - 2) **Planning Commission Public Hearing and Recommendation.** The Planning Commission shall review and make recommendations to the City Council for approval, approval with conditions or denial for all Special Uses.
    - a) Following the submission of the required application materials, the Planning Commission shall hold a public hearing in accordance with this Ordinance and applicable State of Michigan Statutes and provide a written recommendation for final review and approval by City Council.
    - b) The Planning Commission recommendation to City Council shall include written analysis for findings of fact of each standard for approval under Section 8-06(B)(4) and any use-specific standards in Article 4.
    - c) The Planning Commission shall recommend in writing that City Council take one of the following actions:
      - 1) Approve the Special Use,

- 2) Approve the Special Use with Conditions, or
  - 3) Deny the Special Use.
- 3) **City Council Action.** For each application for a Special Use, the Planning Commission shall report to the City Council its findings and recommendations, including the stipulations of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. The City Council shall:
- a) Approve the Special Use permit,
  - b) Approve the Special Use permit with conditions,
  - c) Deny the Special Use permit.
  - d) Refer the Special Use permit to the Planning Commission for further review.

**Figure 8.1. Special Use Permit Procedure**



- 4) **Standards For Special Uses.** In considering an application for a Special Use permit the Planning Commission and City Council shall review the responses by the applicant to the standards set forth below.
  - a) **Ordinance and Master Plan Purposes and Intent.** The proposed use and development will be in harmony with the purposes for which this Ordinance was enacted and the regulations of the governing district and with the Master Plan.
  - b) **Compatibility With Surrounding Development.** The proposed use and development will be constructed, arranged, and operated so as to be compatible with the use and development of neighboring property in accordance with the applicable zoning district regulations.
  - c) **Adequate Public Facilities.** The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities including public water supply system and sanitary sewer, police and fire protection, refuse disposal, public parks, libraries, schools, and other public facilities and utilities.
  - d) **Adequate Circulation.** The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets. Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
  - e) **No Destruction of Significant Features.** The proposed use and development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.
  
- 5) **Issuance of Special Use Permit.** Upon approval of a Special Use application and accompanying site plan by City Council, the Zoning Administrator shall issue a Special Use permit consistent with this Ordinance, the Master Plan, state law and the terms and conditions approved by City Council.
  
- 6) **Amendments to Approved Special Uses.**
  - a) **Determination of Level of Change.** Upon receiving a Special Use amendment application, the Zoning Administrator shall determine whether the amendment is a minor amendment, or a major amendment based on the criteria detailed in Section 8-06(B)(6)(a)(1) below.
    - 1) **Major Amendment.** A major amendment is any proposed change to an approved Special Use that results in one (1) or more of the following:
      - a) Increase in the intensity of the site's use, including:
        - i) A five (5) percent or more increase in impervious surface or modification to the approved stormwater management plan;
        - ii) Request for hours of operation before 8 am or after 6 pm; or
        - iii) Additional noise, glare, odor, or other impacts that are detectable from off-site as determined by the Zoning Administrator.
    - 2) **Minor Amendment.** A minor amendment is any proposed change to an approved Special Use that is consistent with the standards and conditions upon which the Special Use was approved, which does not alter the concept or intent of the Special Use, and which is not considered a major amendment as detailed in Section 8-06(B)(6)(a)(1)
    - 3) **Approval Process.** A major amendment to an approved Special Use shall follow the procedure for a Special Use approval set in Section 8-06(B). A minor amendment to an approved Special Use may be approved by the Zoning Administrator.
  - b) **Special Use Permits For Marihuana Retailers.**
    - 1) **Effect of Permit.**

- a) A special land use permit for a marihuana retailer is valid only for the location identified on the license and cannot be transferred to another location within the City without a new special land use permit.
- b) A special land use permit does not prohibit prosecution by the federal government of its laws or prosecution by state authorities for violations of the MRTMA or other violations not protected by the MRTMA.
- c) Compliance with the City Code and state law is a condition of maintenance of a special land use permit, and a license may be suspended or revoked if such ordinances and statutes are violated.
- d) Nothing contained herein is intended to limit the City's ability to prosecute code violations that may have been the cause of the suspension or any other code violations not protected by the MRTMA.

### 8-07. Variance

- A) **Purpose.** The variance process is designed to provide a narrowly circumscribed means by which relief may be granted from unforeseen applications of this Ordinance that create practical difficulties or particular hardships. A Variance may be granted for practical difficulties or particular hardships resulting from the strict application of the regulations of this Ordinance.
- B) **Authority for Variances.** The Board of Appeals, after public hearing, shall have the power to grant requests for variances from the provisions of this Ordinance where it is proved by the applicant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Zoning Ordinance relating to the construction, equipment, or alteration of buildings or structures so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done.
- C) **Granting of Non-Use Variances.** A non-use variance may be allowed by the Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all the following conditions are met:
  - 1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same district;
  - 2) That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the vicinity (the possibility of increased financial return shall not be deemed sufficient to warrant a variance);
  - 3) The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood;
  - 4) The variance will not impair the intent and purpose of this Ordinance;
  - 5) The immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.
- D) **Granting of Use Variances.** A use variance may be allowed by the Board of Appeals only in cases where there is reasonable evidence of unnecessary hardship in the official record of the hearing and that all of the following conditions are met:
  - 1) That the building, structure, or land cannot be reasonably used for any of the uses permitted by right or as a Special Use in the district in which it is located.
  - 2) That the condition or situation of the specific piece of property or the intended use of such property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.
  - 3) That the proposed use will not alter the essential character of the neighborhood.

- E) **Procedure.**
- 1) **Planning Commission Recommendation.** Prior to the Board of Appeals hearing on a request for a use variance, the Planning Commission shall consider such request and forward a report to the Board of Appeals. For this report the Planning Commission shall consider the Master Plan, the ability of the property owner to use the property for a use already permitted under the existing Zoning District, the effect of the request on the essential character of the neighborhood, and other such factors as the Planning Commission may deem relevant.
  - 2) **Zoning Board of Appeals Hearing and Action.** The Zoning Board of Appeals shall review the application for a Variance, hold a public hearing, and after consideration of the recommendation of the Zoning Administrator, recommendation of the Zoning Administrator and public comment received either:
    - a) Approve the variance,
    - b) Approve the variance with conditions, or
    - c) Deny the variance.
- F) **Effect of Denial.** No application for a variation shall be filed by property owner which is identical or substantially similar to the requested variation which has been denied within one (1) year of the date of the denial.

## 8-08. Map Amendments

- A) **Purpose.** The Zoning Map may be amended in accordance with the state statute. The amendment process is intended to adjust this Ordinance in response to changed conditions or changes in City policy. Amendments are not intended to relieve particular hardships or confer special privileges or rights upon any person or party.
- B) **Map Amendment Review Criteria.** The following review criteria shall be considered in the review and action on map amendment applications.
- 1) The proposed map amendment is consistent with the Master Plan and other adopted policies of the City.
  - 2) The requested map amendment is compatible with the existing uses, development patterns and zoning of nearby properties.
  - 3) The proposed map amendment does not conflict with existing or planned public improvements or will not adversely impact schools, parks, or other public facilities.
  - 4) The natural environment or traffic patterns in the vicinity will not be adversely affected in a manner inconsistent with the planned character of the area.
  - 5) The proposed map amendment is not detrimental to the health, safety and welfare of the neighborhood or of the City as a whole.
- C) **Planning Commission Hearing and Recommendation.** The Planning Commission shall hold a public hearing and at the close of the public hearing and after consideration of the recommendation of the Zoning Administrator and public comment received, either recommend that the City Council:
- 1) Approve the map amendment, or
  - 2) Deny the map amendment.
- D) **City Council Action.** City Council shall review the application for the map amendment and after consideration of the recommendation of the Planning Commission, recommendation of the Zoning Administrator, and public comment received either:
- 1) Approve the map amendment, or

- 2) Deny the map amendment.

## 8-09. Text Amendments

- A) **Purpose.** The regulations imposed and the districts created by this Ordinance may be amended in accordance with the state statute. The amendment process is intended to adjust this Ordinance in response to changed conditions or changes in City policy. Amendments are not intended to relieve particular hardships or confer special privileges or rights upon any person or party.
- B) **Text Amendment Review Criteria.** The following review criteria shall be considered in the review and action on text amendment applications.
  - 1) The proposed text amendment is consistent with the Master Plan and other adopted City policies.
  - 2) The proposed text amendment addresses a particular issue or concern for the City.
  - 3) The proposed text amendment does not impose an unreasonable hardship on existing and planned uses.
  - 4) The requested amendment will further the compatibility of uses and development patterns of the City.
  - 5) The proposed amendments is not detrimental to the health, safety and welfare of the neighborhood or of the City overall.
- C) **Planning Commission Hearing and Recommendation.** The Planning Commission shall hold a public hearing and at the close of the public hearing and after consideration of the recommendation of the Zoning Administrator and public comment received, either recommend that City Council:
  - 1) Approve the text amendment, or
  - 2) Deny the text amendment.
- D) **City Council Action.** The City Council shall review the application for the text amendment and after consideration of the recommendation of the Planning Commission, recommendation of the Zoning Administrator, and public comment received either:
  - 1) Approve the text amendment, or
  - 2) Deny the text amendment.

## 8-10. Comprehensive Sign Plan

- A) **Intent.** The intent of the comprehensive sign plan is to provide an alternative procedure under which signs can be designed, constructed, and erected with innovation, imagination, and creative architecture. The objective of the comprehensive sign plan is to encourage a higher level of design and amenity than is possible to achieve under otherwise applicable sign regulations.
- B) **Applicability.** Any building or development may elect to submit a comprehensive sign plan. After the approval of a comprehensive sign plan, no permanent sign shall be erected, placed, or maintained except in conformance with the comprehensive sign plan.
- C) **Conditions.** The Zoning Administrator may attach conditions, requirements, or standards necessary to assure that the signs covered by the comprehensive sign plan will not be materially detrimental to persons or property in the vicinity. In making its determination, the Zoning Administrator shall not base any condition on the content of a sign.
- D) **Evaluation Criteria.**
- 1) **Placement.** All signs shall be placed where they are visible and legible. Factors to be considered include the location of a sign relative to traffic movement and access points, site features, other structures, and orientation relative to viewing distances and viewing angles. Wall signs may be approved on building walls other than the wall of a unit of a multi-tenant building in which some units have little or no visibility from the street.
  - 2) **Quantity.** The number of signs that may be approved within any development shall be sufficient to provide necessary facilitation of internal circulation of vehicular and pedestrian traffic and wayfinding for safety of the occupants of vehicles and pedestrians. Factors to be considered shall be those that impact safety considerations such as the size of the development and the number of development sub-areas.
  - 3) **Area and Height.** All signs shall comply with the sign area and height requirements established for the sign type as established in Section 6-05 and Section 6-06.
- E) **Application.** A comprehensive sign plan shall be submitted in accordance with the requirements in Appendix A.
- F) **Review and Action.** The Planning Commission shall review the comprehensive sign plan application and approve, approve with conditions, or deny the application based on the evaluation criteria. A written decision including the findings on the evaluation criteria shall be rendered to the applicant.
- G) **Appeals.** Any applicant who receives a notice of denial from the Planning Commission may, within thirty (30) days after receipt of such decision, appeal such decision to the Zoning Board of Appeals by filing a written notice of appeal with the Zoning Administrator with an explanation as to why said decision was not warranted according to the applicant.

## 8-11. Private Streets

- A) **Permits Required.**
- 1) No individual, association, corporation, or entity, either public or private, shall construct a private street without first having obtained a private street permit from the City Council.
  - 2) The Building Inspector shall not issue building permits for construction of any building or structure on lots served solely by a private street until a permit for the private street has been approved by the Planning Commission and a safe and unimpeded route of travel is available for any such structure requiring a building permit.
  - 3) A driveway permit shall be obtained from the Michigan Department of Transportation, as applicable, or from the City.
  - 4) A soil erosion and sedimentation control permit shall be obtained, as may be required by the Soil Erosion and Sedimentation Control Act of 1972, as amended.

- 5) All other required State of Michigan permits shall be obtained.
  - 6) The Planning Commission may elect to have all design and construction plans reviewed by the City's attorney, engineer, or Zoning Administrator prior to consideration of the application for the private street permit.
- B) **Process.** The Planning Commission shall review the private street application and shall take one of the following actions:
- 1) Approve the application;
  - 2) Approve the application with conditions or modifications;
  - 3) Deny the application.
- C) **Review Standards.**
- 1) Prior to approving a private street permit application, the Planning Commission shall determine the following:
    - a) The proposed private street will not be detrimental to the public health, safety, or general welfare;
    - b) The proposed private street will not adversely affect the use of land;
    - c) The private street is constructed to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions;
    - d) The private street is constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the City;
    - e) The construction of the private street will conform to the requirements of this section.
  - 2) The Planning Commission may require that the applicant comply with reasonable conditions relative to the design and construction of the private street.
  - 3) Upon application the Planning Commission may modify any of the private street requirements of this section after finding that all of the following conditions exist:
    - a) Topography, soils, and/or other significant natural features physically preclude or prevent compliance with the requirements of this section without substantial alteration of such natural features. Such natural features shall be clearly identified and described in the application for any such modification.
    - b) The justification of any modification is not due solely to financial considerations which, upon approval of the requested modification would provide a financial benefit.
    - c) No other reasonable private street design alternatives are available that would comply with the requirements of this section.
    - d) The request for modification was reviewed by the Fire Chief or City Engineer or any other appropriate person or official, and a recommendation from such review was submitted to the Planning Commission.

## 8-12. Interpretations

- A) **Purpose.** The provisions of this Ordinance, though detailed and extensive, cannot as a practical matter, address every specific situation which may arise. The interpretation authority established herein is not intended to add or change the essential content of this Ordinance but to allow authoritative application of that content to specific cases.
- B) **Board of Appeals.** The Board of Appeals shall hold a public hearing and render an interpretation of any request within thirty (30) days of the public hearing.



C) **Record of Action.** The Board of Appeals' decision shall be filed and recorded with the City Clerk.

### 8-13. Appeals

A) **Purpose.** An Appeal may be taken to the Board of Appeals by any individual aggrieved by any order, requirement, decision, interpretation or determination of the regulations of this Ordinance made by the Zoning Administrator or Building Inspector.

B) **Initiation.** An application for an Appeal may be filed within thirty (30) days of the action of the Zoning Administrator or Building Inspector.

C) **Board of Appeals Hearing and Action.** A public hearing shall be conducted by the Board of Appeals for each Appeal. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination relating to this Ordinance, made by the Zoning Administrator subject to the criteria in Section 8-13(D).

D) **Appeal Review Criteria.** An Appeal of administrative decisions shall be granted only if the Board of Appeals makes one of the following findings.

- 1) The decision constituted an erroneous application or interpretation of this Ordinance.
- 2) The decision constituted an abuse of the administrative official's discretion to interpret or apply this Ordinance.
- 3) The decision was rendered based upon an erroneous material fact.

E) **Record of Action.** The Board of Appeals' decision shall be filed and recorded with the City Clerk.

## Article 9. Nonconforming Lots, Buildings, Structures, and Uses

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### 9-01. Intent

Upon the adoption of this Ordinance or subsequent amendments, there may exist lots, structures, and uses of land which were lawful prior to the adoption of the Ordinance, or amendment thereto, but which are not in conformance with the provisions of this Ordinance, or amendment thereto. It is the intent of this Ordinance to permit these nonconforming lots, structures, and uses to continue, but not to encourage their prolonged existence. Because nonconforming lots, structures and uses, so long as they exist, prevent full realization of the goals and objectives of the Master Plan, the spirit of this Ordinance is to reduce, rather than increase, such nonconformance.

### 9-02. Nonconforming Lots

- A) **Existing Lot of Record.** In any zoning district where an existing lot of record which does not abut any lot or lots of record in the same ownership, fails to meet the requirements for minimum lot area, minimum lot width, or both, of the zoning district in which it is located, such lot may be used for the permitted uses of the zoning district, provided that all other dimensional requirements not involving lot area and/or lot width of the zoning district in which such lot is located are met.
- B) **Abutting Lots of Record Under Single Ownership.** In any zoning district where two (2) or more abutting lots of record in the same ownership and with frontage on the same street do not, when considered individually, meet the requirements for minimum lot area and/or minimum lot width of the zoning district in which the lots are located, such lots shall be combined to create one or more conforming or more conforming lots for the purposes of this Ordinance.

### 9-03. Nonconforming Uses of Land Not Involving Buildings or Structures

- A) The lawful use of any land, not involving a building or structure, existing and lawful on the effective date of this Ordinance, or amendment thereto, may be continued, even though such use does not conform with the provisions of this Ordinance, or amendment thereto, subject to the following provisions:
  - 1) **Enlargement.** Except as permitted under Sections 9-04 and 9-05, no such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on the effective date of this Ordinance, or amendment thereto.
  - 2) **Relocation.** Except as permitted under Sections 9-04 and 9-05 no such nonconforming use shall be moved in whole or in part to any other portion of the lot occupied by such use on the effective date of this Ordinance, or amendment thereto.

- 3) **Cessation.** If any such nonconforming use of land ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the requirements of this Ordinance. A nonconforming use shall be determined to cease if one (1) or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to cease and abandon the nonconforming use:
- a) Utilities, such as water, gas and electricity to the property, have been disconnected;
  - b) The property, buildings, and grounds, have fallen into disrepair;
  - c) Signs or other indications of the existence of the nonconforming use have been removed;
  - d) Equipment or fixtures necessary for the operation of the nonconforming use have been removed;
  - e) Other actions which in the opinion of the Zoning Administrator constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.

#### 9-04. Nonconforming Structures

- A) Structures which are existing and lawful on the effective date of this Ordinance, or amendment thereto, may be continued, even though such structure does not conform with the provisions of this Ordinance, or amendment thereto, subject to the following provisions:
- 1) **Enlargement/Alteration.** Except as provided for, no nonconforming structure may be enlarged or altered in a way which increases its nonconformity with the provisions of this Ordinance, unless authorized by the Board of Appeals, following a public hearing. In authorizing such enlargement or alteration, the Board of Appeals shall consider and document all of the following:
    - a) The proposed enlargement or alteration will not change the essential character of the area;
    - b) The proposed enlargement or alteration will not be contrary to the Master Plan;
    - c) The proposed enlargement or alteration will not have adverse impact on adjoining property or the general welfare of the City, by reason of its nonconformity with the provisions of this Ordinance; and
    - d) No reasonable and practical alternatives to achieving the desired enlargement or alteration exist in a manner which does not increase the degree of nonconformity of the structure with the provisions of this Ordinance.
  - 2) **ZBA Conditions Pursuant to Enlargement/Alteration.** In authorizing approval to enlarge or alter a nonconforming structure, the Board of Appeals may impose conditions including, but not limited to: additional site landscaping, site buffers, fencing, facade design requirements, additional on-premises parking, vehicular circulation modifications, signage, exterior lighting, and related building and site design modifications.
  - 3) **Damage and Reconstruction.**
    - a) **Nonconforming Structure.** In the event that any nonconforming structure is damaged by fire, wind, accident, act of nature, or other such means or manner, to the extent that the cost of reconstruction or restoration is equal to or less than one-half (1/2) of the value of such structure prior to the damaging occurrence, as determined by the most recent assessment of the market value of the structure, exclusive of the market value of land, such reconstruction or restoration shall be permitted by right, subject to the provisions of this Ordinance. Structures damaged in excess of one-half (1/2) of the fair market value of such structure prior to the damaging occurrence, as determined by the most recent assessment, exclusive of the market value of land, shall only be reconstructed subject to compliance with underlying zoning district standards.

- b) **Building Permit Required.** The above reconstruction or restoration shall require the issuance of a building permit within one (1) year of the occurrence of such damage.
- c) **Secured Building Requirement.** A damaged structure awaiting reconstruction or restoration shall be properly secured within forty-eight (48) hours of the damaging occurrence to prevent trespass, vandalism, and injury to the public.
- 4) **Decrease of Nonconformity and Re-Establishment.** If a nonconforming structure is altered or modified so as to eliminate, remove, or lessen any or all of its nonconforming characteristics, then such nonconforming characteristics shall not be later re-established or increased.

## 9-05. Nonconforming Use of Structure

- A) The lawful use of any structure existing and lawful on the effective date of this Ordinance, or amendment thereto, may be continued, even though such use does not conform with the provisions of this Ordinance, or amendment thereto, subject to the following provisions:
  - 1) **Extending Use Within a Structure.** Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the effective date of this Ordinance, or amendment thereto, but no such use shall be extended to occupy any portion of a building which was not manifestly arranged or designed for such use at the effective date of this Ordinance, or amendment thereto, nor shall such use be extended to occupy any land outside such building.
  - 2) **Alteration of Structure Possessing a Nonconforming Use.** No existing structure devoted to a nonconforming use shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
  - 3) **Reconstruction of Structure Occupied by a Nonconforming Use.** If a structure which conforms with the provisions of this Ordinance, but which is occupied by a nonconforming use, is damaged by any means or in any manner to the extent that the cost of reconstruction or restoration exceeds one-half (1/2) the value of such structure prior to the damaging occurrence, as determined by the most recent assessment of the market value of the structure, excluding the value of land, such structure may be reconstructed or restored only if its use conforms with the provisions of this Ordinance.
  - 4) **Re-Establishment of Nonconforming Use.** If a nonconforming use of any structure is terminated and replaced by a permitted use, such nonconforming use shall not be later re-established.
  - 5) **Abandonment.** When a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for one (1) year, the structure, or structure and land in combination, shall not hereafter be used except in conformance with the regulations of the district in which it is located. A nonconforming use shall be determined to cease if one (1) or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to cease and abandon the nonconforming use:
    - a) Utilities, such as water, gas and electricity to the property, have been disconnected;
    - b) The property, buildings, and grounds, have fallen into disrepair;
    - c) Signs or other indications of the existence of the nonconforming use have been removed;
    - d) Equipment or fixtures necessary for the operation of the nonconforming use have been removed;
    - e) Other actions which in the opinion of the Zoning Administrator, constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.

- 6) **Removal of Nonconforming Use Status After Removal or Destruction of Building.** Where nonconforming use status applies to a structure and land in combination, removal, or destruction of the structure shall eliminate the nonconforming use status of the land.
- 7) **Change in Use (Substitution).**
  - a) A nonconforming use of a structure may be changed to another nonconforming use, subject to prior approval of the Board of Appeals. The Board of Appeals may approve such change only if it complies with the following standards:
    - 1) The proposed use does not increase the degree of nonconformity existing prior to such change of use. Pursuant to this standard, the proposed use shall not create, or result in, impacts which are considered more objectionable than the use to be replaced. Such impacts shall include, but are not limited to, increased traffic, truck deliveries, parking requirements, hours of operation, noise, vibration, odors, litter, outside storage, pedestrian movement, off-site drainage, and other factors.
    - 2) No structural alteration of the existing structure will be required to accommodate the new use, unless the alteration will render the structure more conforming to the underlying zoning district standards.
  - b) In approving a change in use, the Board of Appeals may require reasonable conditions to increase the degree of conformity. Such conditions shall include, but are not limited to, buffers, landscaping, on-premises parking, access controls, hours of operation, and other such conditions to bring about a greater degree of conformity.

## 9-06. Repairs and Maintenance

- A) **Basic Repairs and Maintenance.** On any structure devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, mechanical equipment, or plumbing, to an extent not exceeding twenty (20) percent of the current replacement value of the structure as based on the records of the City Assessor, provided that the structure is not enlarged, extended, moved or structurally altered.
- B) **Safety Improvements.** Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public health.

## 9-07. Structures Under Construction

Any structure on which actual construction was lawfully begun prior to the effective date of this Ordinance, or amendment thereto, but, which under this Ordinance, or amendment thereto, is classified as nonconforming, shall be considered existing and legally nonconforming pursuant to construction purposes and the intended use. Nothing in this Ordinance shall be deemed to require any change in the plans, construction, or use of such structure. Actual construction is defined to include the placing of construction materials in a permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to reconstruction such demolition or removal shall be deemed actual construction.

## 9-08. Nonconforming Short-Term Rental Units

- A) **Nonconforming Short-Term Rental Units Permitted.** Short-term rental units that existed and were registered under Chapter 11 of the Code of Ordinances as of November 23, 2021, the effective date of the amendment creating this section, may be continued as nonconforming uses so long as they conform to the regulations provided herein.

- B) **Regulations.** Notwithstanding any other provision of this Ordinance, the following requirements must be satisfied:
- 1) The ability to operate a nonconforming short-term rental unit is not impaired by the making of modifications, improvements, or repairs to the structure or land where the use is located. However, if the underlying residential use is nonconforming, the underlying use may be impaired by such activities as provided in Section 9-04.
  - 2) The ability to operate a nonconforming short-term rental unit is not impaired by any transfer of ownership or control of the property, unless the right to continue operating a short-term rental unit is later deemed abandoned by the new owner as provided in Subsection B(3) below. New owners are responsible for obtaining renewal permits in accordance with the processes provided in Chapter 11 of the Code of Ordinances.
  - 3) A short-term rental unit shall be deemed abandoned if either of the following transpires:
    - a) The short-term rental unit is not rented for one (1) or more short-term rental terms within a period of twelve (12) months. The failure to submit a short-term rental reservation summary for the unit, as required by Section 11-4 of the City Code, for a period of one (1) year or more shall constitute conclusive evidence of abandonment pursuant to this subsection.
    - b) The short-term rental permit for the property expires, terminates, or becomes invalid and a new permit or renewal permit is not obtained within the later of: i) twelve (12) months from the expiration, termination, or invalidation; or ii) in cases where the permit has been revoked pursuant to Chapter 11 of the Code, six (6) months from the date when the period of ineligibility expires.
  - 4) Notwithstanding Subsection B(3), the ability to operate a nonconforming short-term rental unit is not impaired by the demolition of the structure in which the use is located, so long as:
    - a) There is a valid short-term rental permit in effect at the time of the demolition; and
    - b) A short-term rental permit is obtained for the newly constructed dwelling on the property within eighteen (18) months of the date of the demolition permit.

## Article 10. Definitions

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### 10-01. Intent and Purpose

The purpose of this article is to establish rules for the interpretation of the text of this Ordinance, to define certain words and terms, and to provide for the interpretation of this Ordinance by adoption of a technical dictionary. Certain words and terms which may not appear in this article, but which have special application may be defined in other articles to which they apply.

### 10-02. Use of Words and Terms

- A) If the meaning of this Ordinance is unclear in a particular circumstance, then the Board of Appeals shall construe the provision to carry out the intent of the ordinance, if such intent can be discerned from other provisions of the Ordinance or law.
- B) All words and phrases shall be construed and understood according to the common preferred usage of the language; but technical words and phrases and such as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
- C) Words used in the present tense shall include the future tense, words used in the singular shall include the plural, and words in the plural number shall include the singular, unless the context clearly indicates and stipulates the contrary.
- D) The words "person," "proprietor," "property owner," and "operator" shall include any recognized form of legal entity.
- E) The words "property," "lot," "parcel," "real-estate," "premises," "plot" and "land" shall be interpreted to mean real property as delineated and described by legal documents and instruments.
- F) The word "road" shall also mean "highway," "street," "alley," "drive," "cul-de-sac," or other public thoroughfare.
- G) The word "building" shall include the word "structure".
- H) The words "used" or "occupied" when applied to any land or building shall be construed to include the words "intended," "arranged," or "designed."
- I) The words "shall" and "required" are always interpreted as mandatory and never as permissive or discretionary.
- J) The word "may" shall be interpreted as permissive or discretionary.
- K) Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.
  - 1) "And" indicates that all connected items, conditions, provisions, or events shall apply.
  - 2) "Or" indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
  - 3) "Either. . .or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- L) In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the City or other governmental agency is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.
- M) The word "lot" includes the words "plot," "parcel," and "condominium unit/building site."
- N) The word "erected" or "erection" as applied to any building or structure shall be construed to include the words "built," "constructed," "reconstructed," "moved upon," or any physical operation or work on the land on which the building or structure is to be built, constructed, reconstructed, or moved upon, such as excavation, filling, drainage or the like.



### 10-03. "A" Definitions

- A) **ABUTTING (LOT OR PARCEL).** A lot or parcel which shares a common border with the subject lot or parcel.
- B) **ACCESSORY BUILDING/STRUCTURE.** A subordinate structure or building attached to or detached from but located on the same lot as a principal building or use. Accessory structures and buildings include garages, sheds, gazebos, cabanas, decks, greenhouses, arbors and trellises, swimming pools, and playhouses.
- C) **ACCESSORY DWELLING UNIT.** A small, independent residential dwelling unit located on the same lot as a stand-alone principal dwelling unit. Accessory dwelling units may be located as a partitioned area within the principal dwelling, as a building attached to a principal dwelling unit, or as an accessory building detached from the principal building.
- D) **ACCESSORY RETAIL.** The use of a structure on the same lot or tract as the principal structure, used for the accessory retail sale of goods or items produced on the premises.
- E) **ACCESSORY USE.** A use on the same lot with, and a nature customarily incidental and subordinate to, the principal use or structure.
- F) **ADDITION.** A structure added to the existing structure after the completion of the existing structure which extends or increases the floor area, or height of a building or structure.
- G) **ADJOINING (LOT OR PARCEL).** A lot or parcel which either abuts the subject property or is located directly across a public or private street right-of-way from the subject parcel.
- H) **ADULT BOOKSTORE.** An establishment used for the sale of books, magazines, posters, video cassettes, motion picture films, and other printed materials; or tapes or sex objects for other than contraceptive purposes; distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities," or "specified anatomical areas," as defined herein.
- I) **ADULT ESTABLISHMENT.** Any use of land, whether vacant or combined with structures or vehicles thereon, by which said property is devoted to selling, displaying, providing services, or exhibiting material for entertainment, a significant portion of which include matter or actions depicting, describing or presenting "specified sexual activities" or "specified anatomical areas." For purposes of this definition, the term "significant" shall be defined as greater than twenty (20) percent of the total material displayed or exhibited for sale for entertainment purposes, or comprising more than twenty (20) percent of the revenue produced by the business. Adult establishments include, but are not limited to the following: adult motion-picture theater, adult mini-motion-picture theater, adult motion picture arcade, adult bookstore, adult cabaret, adult novelty store, adult motel, and adult massage parlor as defined in this Ordinance.
- J) **ADULT DAY CARE HOME.** A private residence receiving fewer than six (6) adults to be provided with care for periods of less than twenty-four (24) hours a day.
- K) **ADULT FOSTER CARE FACILITY.** A facility defined as an "adult foster care facility" by the adult foster care facility licensing act, Act No. 218 of the Public Acts of Michigan of 1979 (MCLA § 400.701 et seq.), as amended, having as its principal function the receiving of adults for foster care, and licensed by the state under the act. An "adult foster care facility" includes facilities and foster care family 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.
- L) **ADULT FOSTER CARE FAMILY HOME.** A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.
- M) **ADULT FOSTER CARE LARGE GROUP HOME.** An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided with foster care.

- N) **ADULT FOSTER CARE SMALL GROUP HOME.** An adult foster care facility with the approved capacity to receive at least three (3) but not more than twelve (12) adults to be provided with foster care.
- O) **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.
- P) **ADULT LIVE ENTERTAINMENT THEATER.** An enclosed building for presenting live entertainment involving the use of strip dancers, naked individuals, individuals who wear see through clothing which permits the view of "specified anatomical areas," individuals who are partially clothed and partially unclothed so as to permit the view of "specified anatomical areas," or individuals conducting "specified sexual activities."
- Q) **ADULT MOTION PICTURE THEATER.** An enclosed building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in this Ordinance, for observation by patrons therein.
- R) **ALLEY.** Any dedicated public right-of-way affording a secondary means of access to abutting property, and not intended for general circulation.
- S) **ALTERATION.** Any modification, remodeling, change or rearrangement in the structural or supporting members such as bearing walls, columns, or girders, as well as any change in the doors or windows which affect the means of egress which is undertaken without adding to the floor area height or physical size of the building or structure.
- T) **ANIMAL BOARDING FACILITY/KENNEL AND/OR VETERINARY SERVICE.** Any structure, land, or combination thereof used, designed, or arranged for the boarding, breeding or care of animals.
- U) **ARTISAN MANUFACTURING.** Small-scale businesses that produce artisan goods or specialty foods, primarily for direct sales to consumers, such as artisan leather, glass, wood, paper, ceramic, textile and yarn products, specialty foods and baked goods. This land use includes the design, processing, fabrication, assembly, treatment and packaging of products; as well as the incidental storage, sales and distribution of such products.
- V) **AUTOMOTIVE REPAIR, MAJOR.** Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body frame or fender straightening or repair; and painting of vehicles.
- W) **AUTOMOTIVE REPAIR, MINOR.** Incidental repairs, replacement of parts, and motor service to automobiles but not including any operations specified under Automotive Repair, Major.
- X) **AUTO, RECREATIONAL VEHICLE, OR WATERCRAFT SALES/RENTAL.** The use of any building or portion thereof, or other premises or portion thereof, for the display, sale, rental, or lease of new or used recreational vehicles, automobiles, or watercraft as an ancillary use of a zoning lot, and any warranty repair work and other repair service conducted as an accessory use.

#### 10-04. "B" Definitions

- A) **BAR/TAVERN.** An establishment or part of an establishment open to the general public primarily devoted to the selling or serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.
- B) **BASE FLOOD LEVEL.** The highest elevation of a flood having a one-(1) percent chance of being equaled or exceeded in any given year.
- C) **BASEMENT .** That portion of a building which is partly below and partly above grade, and having at least one-half (1/2) its height below grade.
- D) **BED-AND-BREAKFAST.** A use within a detached single-family dwelling in which transient guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.

- E) **BOARD OF APPEALS.** The City of New Buffalo Zoning Board of Appeals governed by Act 110 of the Public Acts of 2006, as amended.
- F) **BREWERY/WINERY/DISTILLERY.** A production-oriented establishment primarily engaged in brewing fermented malt beverages including beer, ale, malt liquors, and nonalcoholic beer (brewery), manufacturing and bottling wine on the premises (winery), or manufacturing, by distillation, intoxicating spirits on the premises (distillery) primarily for sale and not including the consumption on-premises.
- G) **BREWERY/WINERY/DISTILLERY, TASTING ROOM.** A brewery, microbrewery, winery or distillery in which customers may sample, purchase and consume wine, beer or spirits on the premises.
- H) **BUILDING.** A combination of material, whether portable or fixed forming a structure having a roof supported by columns or by walls affording a facility or shelter for use or occupancy by person, animals, or property.
- I) **BUILDING CODE.** The Building Code enforced by the City.
- J) **BUILDING, ENCLOSED.** A building separated on all sides from the adjacent open space or from other buildings or other structures, by a permanent roof and behind exterior walls or party walls, pierced only by windows and normal entrance or exit doors.
- K) **BUILDING INSPECTOR.** The officer or other designated authority charged with the administration and enforcement of the applicable Building Code, or the duly authorized representative of the officer.

#### 10-05. "C" Definitions

- A) **CAMPGROUND.** An area rented to the public for transient occupancy or lodging a camping unit.
- B) **CARWASH.** The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.
- C) **CERTIFICATE OF OCCUPANCY.** A written document received from the Building Inspector stating that the applicable Building Code, as amended, and this Ordinance have been complied with as they apply to the construction of a building or structure and the use of a lot and that the building may now be occupied for its previously declared purpose.
- D) **CEMETERY.** Land used for the burial of the dead, and dedicated for cemetery purposes, excluding columbariums, crematories, mausoleums, and mortuaries.
- E) **CHANGE OF USE.** A use of a building, structure, or parcel of land, or portion thereof which is different from the previous use in the way it is classified in this Ordinance.
- F) **CITY.** The City of New Buffalo, Michigan.
- G) **CITY COUNCIL.** The legislative body of the City.
- H) **COMPOSTING FACILITY.** A facility where organic matter that is derived primarily from off-site is to be processed by composting and/or is processed for commercial purposes. Activities of a composting facility may include management, collection, transportation, staging, composting, curing, storage, marketing, or use of compost.
- I) **CONSTRUCTION.** The erection, alteration, repair, renovation, demolition or removal of any building or structure; and the excavation, filling, and grading of a lot.
- J) **CONSTRUCTION-RELATED USE.** Contractors' office or trailer and equipment shed(s) when accessory to a construction project, provided that no such use will contain any sleeping or cooking accommodations and is strictly limited to a period not to exceed the duration of the active construction phase of the associated project.

- K) **CUL-DE-SAC.** A dead-end public or private street, generally short in distance, which terminates in a circular or semi-circular section of street allowing for vehicle turnaround.

## 10-06. "D" Definitions

- A) **DENSITY.** The number of dwelling units per unit of lot area.
- B) **DEVELOPMENT.** The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; and mining, excavation, landfilling or land disturbance, and any extension of an existing use of land.
- C) **DISTRIBUTION FACILITY.** A facility located within an enclosed building primarily oriented to the storage and shipping of packaged materials or goods for a single business or a single group of businesses.
- D) **DISTRICT, ZONING.** An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations, and other appropriate regulations as established in this Ordinance.
- E) **DRIVEWAY.** An improved public or private passageway providing vehicular ingress to, and vehicular egress from, a public or private road to or from a lot, parcel, or building on abutting grounds.
- F) **DRIVE-THROUGH.** Any place or business operated for the sale and purchase at retail of food and other goods, or the rendering of services for which the facility is designed and equipped so as to allow its patrons to be served or accommodated while remaining in their motor vehicle.
- G) **DONATION DROP BOX.** A mobile structure which is used to receive materials such as clothing and other household or office goods donated by the public.
- H) **DWELLING UNIT.** A building, or portion thereof, designed exclusively for human occupancy providing complete independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. A dwelling unit may be used as a short-term rental unit when licensed pursuant to Chapter 11 of the City Code and when either: 1) short-term rentals are not prohibited in the zoning district where the property is located; or 2) the short-term rental unit is established as nonconforming and operating in compliance with the regulations in Section 9-08.
- I) **DWELLING, DUPLEX.** A building containing two (2) attached, single-family, dwellings joined to one another by a party wall or walls, and which may be stacked vertically or horizontally.
- J) **DWELLING, MULTIFAMILY.** A single building containing more than two (2) residential dwelling units that share a common party wall and/or floors or ceilings. The building has a common external entrance and units are accessed through internal entrances.
- K) **DWELLING, ABOVE GROUND FLOOR RETAIL USE ONLY.** One (1) or more dwelling units located in an upper-story of a building above a ground floor that contains a retail use involving the sale of goods on-site. The use shall not include sites that include ground-floor service or other nonresidential uses only; a retail use on the ground floor shall be required.
- L) **DWELLING, SINGLE-FAMILY DETACHED.** A detached building, designed for or occupied exclusively by one (1) family.
- M) **DWELLING, TOWNHOME.** A building having three (3) or more dwelling units that are arranged side-by-side, joined to one another at one (1) or more sides by a party wall and with each occupying an exclusive vertical space without another dwelling unit above or below. Each dwelling has a dedicated exterior entrance.

## 10-07. "E" Definitions

- A) **EDUCATIONAL FACILITY.** A public or private accredited kindergarten through 12th grade school, college, trade, or business school, nursery school, pre-school, or day-care center, with or without related administrative offices, excluding maintenance garage.
- B) **ELECTRIC VEHICLE CHARGING STATION.** The equipment for charging electric-powered vehicles and the space on a site designated for its use.
- C) **ENLARGEMENT.** An addition to the floor area of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use.
- D) **EQUIPMENT RENTAL, SALES, AND SERVICE.** Establishments primarily engaged in the sale or rental of tools, trucks, tractors, construction equipment, agricultural implements, similar industrial equipment, and mobile homes. Included in this use type is the incidental storage, maintenance, and servicing of related equipment.
- E) **ERECTED.** Built, constructed, altered, reconstructed, moved upon, or any physical operation on the premises which are required for construction purposes. Excavation, fill, drainage and the like shall be considered a part of the erection process.
- F) **EXISTING USE.** The use of a parcel of land or a structure at the time of the enactment of this Ordinance.
- G) **EXTRACTIVE INDUSTRY.** On-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operation, mining, and soil mining. Specifically excluded from this use is grading and removal of dirt associated with an approved site plan or subdivision or excavations associated with, and for the improvement of, a bona fide agricultural use.

## 10-08. "F" Definitions

- A) **FAMILY CHILD CARE HOME.** A state licensed facility in a dwelling unit in which one but less than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Family child care home also includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.
- B) **FARMERS MARKET.** The seasonal selling or offering for sale at retail of home-grown vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables or produce or have taken the same on consignment for retail sale.
- C) **FENCE.** Any permanent partition, structure or gate erected as a dividing structure, barrier or enclosure, and not part of a structure requiring a building permit constructed to prevent uncontrolled access, for decorative purposes, or to screen from view from adjoining properties and streets the property or lot upon which the fence is erected.
- D) **FINANCIAL INSTITUTION.** An establishment whose principal use or purpose is the provision of financial services, including, but not limited to, bank facilities for tellers, automated teller machines, credit unions, savings and loan institutions, and currency exchange establishments. This use shall not include establishments whose primary purpose is to accept applications, originate, underwrite, process or service residential or commercial loans secured by mortgage on real property.
- E) **FLOOD HAZARD AREA.** Land which on the basis of available floodplain information is subject to a one (1) percent or greater chance of flooding in any given area.
- F) **FLOOD INSURANCE RATE MAP (FIRM).** An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special hazards and the risk-premium zones applicable to the community.
- G) **FLOOD or FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of waters; or the unusual and rapid accumulation of runoff of surface waters from any source.

- H) **FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas designated in the Flood Insurance Study which must be reserved in order to discharge the base flood.
- I) **FLOOR AREA.** The sum of all horizontal areas of the several floors of a building or dwelling unit, measured from the exterior faces of exterior walls, or from the center line of walls separating dwelling units. Unenclosed porches, courtyards, patios and cellars shall not be considered as part of floor area, except when utilized for commercial or industrial purposes.
- J) **FLOOR AREA, GROSS (GFA).** The area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, basements, elevator shafts, equipment and utility rooms, restrooms, stairs, closets/storage rooms, thickness of walls, columns, or other features.
- K) **FOOD TRUCK.** A motorized vehicle or trailer equipped to cook, prepare, and/or sell food.
- L) **FOOD TRUCK COURT.** A permanently established area designed to accommodate multiple food trucks and offering food and/or beverages for sale to the public as the main use of the property and functioning as a single business.
- M) **FORESTRY.** Any commercial activity relating to the growing and harvesting of forest tree species.
- N) **FOSTER FAMILY GROUP HOME.** A private home in which more than four (4) but fewer than seven (7) minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in a household under the Michigan adoption code, chapter X, of the probate code of 1939 (1939 PA 288, MCL 710.21 to 710.70). The minor children are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian.
- O) **FOSTER FAMILY HOME.** A private home in which one but not more than four (4) minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in a household under the Michigan adoption code, chapter X, of the probate code of 1939 (1939 PA 288, MCL 710.21 to 710.70). The minor children are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian.
- P) **FRONTAGE.** The total length of the front lot line (in feet) being the horizontal distance between the side lot lines, as measured at the street right-of-way line, or private street easement line.
- Q) **FUNERAL HOME.** An establishment used for undertaking services such as preparing human dead for burial or cremation, display of the deceased and performing human funeral services.

## 10-09. "G" Definitions

- A) **GENERAL SERVICE.** An establishment primarily engaged in rendering services to individuals and business establishments which services cannot be categorized into one of the other defined service use categories in this Ordinance. The services are typically provided without the retail sale of products or which such product sales are incidental to the service-driven purposes of the establishment, such as a beauty salon, day spa, medical massage establishment, or barber shop.
- B) **GOVERNMENTAL USE .** A facility under the operational control of a governmental unit, specifically a township, city, village, county, state, the United States Government, or some combination of governmental units, including, but not limited to, offices, libraries, museums, town halls, post offices, courts, and civic centers; excluding vehicle and equipment maintenance, garages and correctional institutions.
- C) **GRADE, FINISHED.** The average elevation of the finished surface of ground after the development, filling, or excavation of a parcel of land.
- D) **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 family by blood, marriage, or adoption. Group child care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

### 10-10. “H” Definitions

- A) **HEALTH CARE FACILITY.** A building containing medical services for acute patient needs or containing an association or group of physicians, dentists, clinical psychologists, or similar professional health care practitioners, including assistants. The clinic may include a pharmacy, dental and mental laboratories, and/or x-ray facilities, but shall not include inpatient or overnight care.
- B) **HEIGHT, BUILDING.** The vertical distance measured from the mean elevation of the finished lot grade along the front yard of the structure to the mean elevation of the roof.
- C) **HOME OCCUPATION.** An occupation customarily conducted in a dwelling unit that is clearly an incidental and secondary use of the dwelling.
- D) **HOUSEHOLD PETS.** Includes dogs, cats, rabbits, and similar types of pets traditionally kept in a residential home. Wild or exotic animals shall not be considered customary household pets.
- E) **HOTEL.** A building containing lodging rooms, a general kitchen and dining room, a common entrance lobby, halls and stairway, and where lodging rooms do not have a doorway opening directly to the outdoors, except for emergencies, and where the lodging rooms are for rent, with or without meals, to transient guests.

### 10-11. “I” Definitions

- A) **INDUSTRIAL USE.** A structure, building, or parcel of land, or portion thereof utilized or inherently designed to be utilized for the purpose of production, manufacturing, processing, cleaning, testing, rebuilding, assembly, distribution, finishing, constructing, or printing of goods or products, and related research and development facilities.
- B) **INDUSTRY, LIGHT.** Industrial use at which all operations (with the exception of loading operations): Are conducted entirely within an enclosed building; are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; and do not pose a significant safety hazard (such as danger of explosion).

### 10-12. “J” Definitions

- A) **JUNK.** Any worn out or discarded materials including, but not necessarily limited to: yard debris, scrap metal, scrap paper, scrap lumber, other scrap and discarded materials, and any inoperable motor vehicles, machinery, appliances, or products. Junk includes the above materials, whether they are to landfilled, recycled, sold, or used in some other way.

### 10-13. “K” Definitions

- A) **KEEPING OF ANIMALS.** The permanent keeping of household pets as defined in this Ordinance as an accessory use.

### 10-14. “L” Definitions

- A) **LAND USE.** A description of how land is occupied or utilized.
- B) **LOADING AREAS AND PARKING AREAS AS A PRINCIPAL USE.** The principal use of a property for off-street parking and loading of motor vehicles as defined in this Ordinance.
- C) **LOADING SPACE.** An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

- D) **LOT.** A parcel of land, or contiguous parcels of land under one ownership described within fixed boundaries, of sufficient size and configuration to meet the site development requirements of this ordinance and having access to a public road or approved private road. The word "lot" shall include plot or parcel. A lot need not be a "lot of record." A lot may also mean a portion of a condominium project, as regulated by Public Act 59 of 1978, as amended, designed and intended for separate or limited ownership and/or use.
- E) **LOT AREA.** The total area within the described lot lines of a parcel of land, excluding road right-of-way, or private road easement area.
- F) **LOT, CORNER.** A parcel of land abutting upon two or more streets at their intersection, or upon parts of the same street forming an interior angle of less than 135 degrees.
- G) **LOT, COVERAGE.** That portion of the area of lot that contains buildings and structures measured as a percent of the entire lot area.
- H) **LOT DEPTH.** The distance from the front lot line to the rear lot line measured in between the side lines of the lot.
- I) **LOT, FLAG.** A lot with access provided to the bulk of the lot by means of a narrow corridor fronting on a public street.
- J) **LOT, INTERIOR.** A lot other than a corner lot.
- K) **LOT LINE.** The boundaries of a lot which divide one lot from another lot or from a public or existing private road or any other publicly owned parcel of land.
- L) **LOT LINE, FRONT.** A lot line which is along an existing or dedicated street. Where the lot abuts more than one dedicated street, the shortest of the lot lines that abut a dedicated street shall be the front lot line.
- M) **LOT LINE, REAR.** That lot line which is opposite, parallel or approximately parallel to, and most distant from the front lot line. In the case of an irregular- or triangular-shaped lot, a line at least ten (10) feet in length, entirely within the lot, and generally parallel to and most distant from the front lot line.
- N) **LOT LINE, EXTERIOR SIDE.** A lot line which abuts a street and which is not a front lot line or a rear lot line.
- O) **LOT LINE, INTERIOR SIDE.** A lot line which abuts another lot and which is not a front lot line or rear lot line or exterior side lot line.
- P) **LOT OF RECORD.** Any parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds records as of the date of adoption of this Ordinance or any relevant amendment thereto which would affect such lot, which lot actually exists as shown or any part of a parcel held in record ownership separate from that of the remainder.
- Q) **LOT WIDTH.** The horizontal distance between side lot lines measured parallel to the front lot line at the required front setback line.



## 10-15. “M” Definitions

- A) **MARINA.** A use of land involved in the operation of, including structures and activities normally integral to servicing, fueling, pumping-out, chartering, launching, and dry-storage of boats and boating equipment.
- B) **MARIHUANA ACCESSORIES.** Any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.
- C) **MARIHUANA ESTABLISHMENT.** A marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the marijuana regulatory agency.
- D) **MARIHUANA LICENSEE.** A person holding a valid license for an adult use marihuana establishment issued by the State of Michigan.
- E) **MARIHUANA 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.
- F) **MASSAGE SERVICE.** Any fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area, nor practices of massage therapists who meet one (1) or more of the following criteria:
- 1) Proof of graduation from a school of massage licensed by the State of Michigan;
  - 2) Official transcripts verifying completion of at least three-hundred (300) hours of massage training from an American community college, college, or university; plus three references from massage therapists who are professional members of a massage association referred to in this section;
  - 3) Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards; or
  - 4) A current occupational license from another state.
- G) **MASTER PLAN.** The Master Plan under current adoption by the City including any amendments or updates thereto.
- H) **MICROBREWERY/MICROWINERY.** A combination retail, wholesale, and/or small-scale artisan manufacturing business that brews, ferments, processes, packages, distributes, and serves either beer or wine for sale on- or off-site. A microbrewery or microwinery shall produce no more than one-hundred fifty-five thousand (155,000) gallons of beer or wine, respectively per year for sale on the premises for either on-premises or off-premises consumption. These facilities may include an ancillary tasting room and retail component in which guests/customers may sample and purchase the product. Off-site distribution of the beverages shall be consistent with state law.
- I) **MICRODISTILLERY.** A small scale artisan manufacturing business that blends, ferments, processes, packages, distributes and serves alcoholic spirits on and off the premises and produces no more than fifteen thousand (15,000) gallons per calendar year on-site. The microdistillery facility may include an ancillary tasting room and retail component in which guests/customers may sample and purchase the product. Off-site distribution of the alcoholic beverages shall be consistent with state law.
- J) **MOTEL.** A building containing lodging rooms having adjoining individual bathrooms and where the lodging rooms are for rent to transient guests.

- K) **MUNICIPAL OR PRIVATE PORT OR MARINA.** A use of land, publicly or privately owned, involved in the operation of a marina including structures and activities normally integral to the operation of a marina.

## 10-16. "N" Definitions

- A) **NONCONFORMING BUILDING.** A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, and which does not conform to the provisions of the Ordinance in the zoning district in which it is located.
- B) **NONCONFORMING LOTS OF RECORD.** A platted lot that conformed with all City zoning requirements at the time of recording of said plat, which no longer conforms to the zoning regulations and requirements for lot area, lot width, or both; or a lot outside a recorded plat that conformed with all City zoning requirements at one time, and which has not been subdivided or reduced in size subsequent to the time it did conform to this Ordinance, which no longer conforms with the zoning requirements for lot area, lot width, or both.
- C) **NONCONFORMING USE.** A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereof, and that does not conform to the use regulations of the zoning district in which it is located.
- D) **NURSERY, RETAIL.** A parcel of land utilized for the purpose of growing ornamental trees, shrubbery, house plants, flowers, or perennial ground covers from seed or seedlings for the purpose of retail or wholesale trade.
- E) **NURSERY, WHOLESALE.** The growing, storage, and sale of garden plants, shrubs, trees, or vines for resale, including incidental retail sales conducted from within a building not exceeding twenty (20) percent of the combined wholesale and retail sales volume during any year.
- F) **NURSING AND CONVALESCENT HOME.** A structure with sleeping rooms, where persons are housed or lodged on a full-time basis and are furnished with meals, nursing care, and medical care.

## 10-17. "O" Definitions

- A) **OCCUPY.** The residing of an individual or individuals overnight in a dwelling unit, or the installation, storage, or use of equipment, merchandise or machinery in any institutional, commercial, agricultural, or industrial building.
- B) **OFF-STREET PARKING.** Includes the off-street parking spaces, loading/unloading areas, and circulation aisles that are on the same lot(s) or parcel(s) as the development project being submitted for review.
- C) **OFFICE.** Business uses, with little direct contact with customers present at the office, which is engaged in the processing, manipulation or application of business information or professional expertise. An office use is not materially involved in fabricating, assembling, or warehousing of physical products for the retail or wholesale market, nor is an office engaged in the repair of products or retail services. This use shall include, but not be limited to, professional offices for nonprofit organizations, accounting; insurance, investment services; computer services, architecture; engineering, legal services, real estate services, and doctors' and dentists' offices, but not medical clinics.
- D) **OFFICE COMPLEX/BUSINESS PARK.** A development which contains a number of separate office buildings, accessory and supporting uses, and open space all de-signed, planned, constructed, and maintained on a coordinated basis.
- E) **OUTDOOR DINING.** Use of an adjacent, outside area by a food or beverage establishment with a liquor license for on-premises consumption, for the same eating and drinking activities that occur within the establishment's building including, without limitation, the service and consumption of alcoholic beverages.
- F) **OUTDOOR DISPLAY/SALE OF MERCHANDISE.** The display and/or sale of merchandise or equipment outside of an enclosed building by the occupant of the primary building of the lot either as a principal or accessory use.
- G) **OPEN SPACE.** Open space which is held for the collective use and enjoyment of the owners, tenants, or occupants of a single development.

- H) **ORDINANCE.** The City of New Buffalo Zoning Ordinance as adopted and amended.
- I) **OUTDOOR ACTIVITY/OPERATION/STORAGE.** The subordinate use of a lot for sustained and continuous outdoor use customarily incidental to the primary use of the lot.
- J) **OWNER.** The owner of the freehold of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessor, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property, or the owner's duly authorized agent.

## 10-18. "P" Definitions

- A) **PARCEL.** A lot described by metes and bounds or described in a recorded plat.
- B) **PAWNBROKER.** Any person, proprietor, owner, or operator of a legal entity who loans money on deposit, or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price. An internet drop-off store meeting the requirements detailed in MCL 446.201, shall not count as a pawnbroker.
- C) **PLACE OF ASSEMBLY, COMMERCIAL.** A building wherein individuals or groups of people gather for an attraction or service used for commercial purposes, such as but not limited to, recreation establishment, theaters, ice rinks, dance halls, and moving picture theaters.
- D) **PLACE OF ASSEMBLY, NON-COMMERCIAL.** A building wherein individuals or groups of people gather for an attraction or service not used for commercial purposes such as but not limited to, community centers, fraternal or civic organizations, lodges, libraries, museums, municipal buildings, auditoriums, or religious institutions.
- E) **PERMIT.** An official document or certificate issued by an authorized official, empowering the holder thereof to perform a specified activity which is not prohibited by law, but not allowed without such authorization.
- F) **PLANNED UNIT DEVELOPMENT (PUD).** The use of a parcel of land which is planned and developed as a single entity containing the various uses, structures, open spaces, and other elements and which is designated and developed under one owner or organized group, in accordance with the requirements of this Ordinance.
- G) **PLAT.** A recorded subdivision of land as provided in Act 288 of 1967, as amended, the Land Division Act.
- H) **PORTABLE TEMPORARY STORAGE CONTAINER.** Any item designed and used as follows: a container which is delivered to a property, which is filled with household items or other non-trash materials, and which is intended to be reused for other items or materials.
- I) **PRINCIPAL USE.** The primary or predominant purpose to which a parcel of land is devoted as distinguished from an accessory use.
- J) **PROPERTY LINE.** See "lot line."
- K) **PUBLIC SAFETY FACILITIES.** A government facility for public safety and emergency services, including a facility that provides police or fire protection and related administrative facilities.

## 10-19. "R" Definitions

- A) **RAILROAD USE.** The occupation and use of land, buildings, and structures for purposes directly connected with rail transportation of articles, goods, and passengers, including such facilities as tracks, sidings, signal devices and structures, shops and yards for maintenance and storage of rail machinery, loading platforms, and passenger and freight terminals, but excluding freight terminals and yards, and similar facilities, which are maintained and operated by the owning railroad or by a lessee for the purposes auxiliary to rail transportation, or by a lessee for the purposes auxiliary to rail transportation;

provided, however, that the operation of such facilities as a hobby or as part of an amusement business shall not be considered a railroad use.

- B) **RECREATION AREA.** An outdoor recreation site serving a single or several neighborhood(s) and containing open space and natural resources intended for active and passive recreation. Recreational facilities located in such areas may include, but not necessarily limited to, areas for participating in baseball, softball, tennis, basketball, playground or playfield (which may be associated with a middle or high school), picnicking, swimming, bicycle paths, hiking trails, and bird watching areas, etc.
- C) **RECREATIONAL VEHICLE OR EQUIPMENT.** A vehicle or equipment intended for temporary or periodic use for recreational or leisure pursuits. Such vehicles include boats, airplanes, special purpose automobiles, floats, rafts, trailers, snowmobiles, camping or travel trailers, motorized homes, detachable travel equipment of the type adaptable to light trucks, and other equipment or vehicles of a similar nature.
- D) **RECYCLING FACILITY.** An establishment for the processing (separation and/or recovery) or collection of recyclable materials from solid wastes. Recycling of oil or other liquids may also occur.
- E) **REPAIR.** The reconstruction or renewal of any part of an existing building for the purpose of maintenance.
- F) **RESTAURANT, DELIVERY/CARRY OUT ONLY.** An establishment which by design of physical facilities or by service or packaging procedures permits or encourages the purchase of prepared, ready-to-eat foods intended to be consumed off the premises.
- G) **RESTAURANT, SIT-DOWN.** An establishment whose food is available to the general public primarily for consumption within a structure on the premises, where at least fifty (50) percent of the gross floor area of the establishment is devoted to patron seating.
- H) **RESTORATION.** The reconstruction or replication of an existing building's original architectural features.
- I) **RIGHT-OF-WAY.** A public or private strip of land acquired or utilized by reservation, dedication, easement, prescription, purchase or condemnation and permanently established for the passage of persons, vehicles, railroads, water, utility lines, and similar uses.

## 10-20. "S" Definitions

- A) **SALVAGE YARD.** Any land or building used for the storage, sorting, dismantling, baling, salvaging, recycling, and/or sale of junk. Junkyards shall not include residential or municipal garden or leaf composting, a municipal dump or landfill, or drop-off stations for residential recyclables.
- B) **SCREENING.** A structure such as a fence, wall, landscape buffer, or combination of same, providing enclosure and a visual barrier between the area enclosed and the adjacent property.
- C) **SEASONAL SALES.** Christmas tree, pumpkins and similar, temporary (typically recurring on an annual basis) sales for a period not to exceed thirty (30) days.
- D) **SELF-SERVICE STORAGE FACILITY.** A building or group of buildings that are used for the storage of personal property, where individual owners or tenants control individual storage spaces.
- E) **SENIOR LIVING FACILITY.** Licensed personal care facilities, other than hotels, adult foster care homes, hospitals, nursing homes, or county medical care facilities, that provide supervised personal care to twenty-one (21) or more individuals who are age sixty (60) or older. Facilities that are operated in conjunction with and as a distinct part of a licensed nursing home may serve twenty (20) or fewer adults.
- F) **SETBACK.** The minimum horizontal distance between a lot line and structures or other uses on a lot as measured perpendicularly from the lot line.

- G) **SETBACK LINE.** A line parallel to the lot line at a distance therefrom equal to the depth of the minimum required yard for the district in which the lot or parcel is located.
- H) **SETBACK, REQUIRED.** The required minimum horizontal distance between a front, rear, or side lot line and a setback line; provided, however, said horizontal distance shall be measured from the street right-of-way line whenever a yard abuts a public or private street. On lots with multiple street frontage, such as corner lots, all sides of said lots abutting a street shall be considered front yards for setback purposes.
- I) **SHORT-TERM RENTAL ACTIVITY.** The rental of a dwelling unit for compensation for a term of less than one month. However, short-term rental activity does not include the following: transitional housing operated by a nonprofit entity, group homes such as nursing homes and adult foster care homes, hospitals, housing provided by a substance abuse rehabilitation clinic, mental health facility, other health-care-related clinic, or dwelling units owned by a business entity and made available on a temporary basis to employees of that business entity or employees of a contractor working for that business entity.[Added 11-23-2021 by Ord. No. 253]
- J) **SHORT-TERM RENTAL.** A dwelling unit in which short-term rental activity is permitted to occur subject to the terms and conditions of this ordinance and Chapter 11 of the City Code. [Added 11-23-2021 by Ord. No. 253]
- K) **SIGN.** Any object, device, display or structure or part thereof which is used to advertise, identify, display, direct or attract the attention to an object, person, institution, organization, business, project, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, colors, motion illumination or projected images. The term sign includes, but is not limited to, every projecting sign, wall sign, roof sign, billboard, posterboard, freestanding sign, ground sign, window sign, vehicle sign, awning sign, canopy sign, marquee sign, changeable copy sign, illuminated sign, flashing sign, animated sign, temporary sign, portable sign or any other attention getting device or other display whether affixed to a building or separate from any building.
- 1) **A-Frame/Sandwich Board Sign.** An advertising or business ground sign constructed in such a manner as to form an "A" or a tent-like shape, hinged or not hinged at the top; each angular face held at an appropriate distance by a supporting member.
  - 2) **Attention Getting Device.** Any pennant, flag, valance, banner, propeller, spinner, streamer, searchlight, balloon and similar device or ornamentation designed for purposes of promotion or advertising or attracting attention.
  - 3) **Awning/Canopy Sign.** Shall include any fixed sign, as well as retractable or removable marquee, canopy and awning, respectively, projected over, suspended above or erected upon any public thoroughfare.
  - 4) **Billboards.** A single- or double-faced freestanding sign permanently erected on the premises, including changeable copy signs, used for the display of commercial information not associated with the conduct of a business or enterprise located on the same premises of such sign.
  - 5) **Electronic Message Boards.** A sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means. A time and/or temperature sign shall not be considered an electronic graphics sign.
  - 6) **Feather Signs.** A portable sign that is printed on knitted polyester and used for outdoor marketing and advertising purposes.
  - 7) **Freestanding Sign.** A sign completely or principally self-supported by a post(s) or other support(s) independent of any building or other structure and anchored in or upon the ground.
  - 8) **Internally Illuminated Sign.** A sign, all or any part of the letter or design of which is made of incandescent, neon or other types of lamps; a sign with painted, flush or raised letter lighted by an electric lamp or lamps attached thereto; a sign having a border of incandescent or fluorescent lamps thereto attached and reflecting light thereon; or a translucent sign, whether lighted by electricity or other illuminant.

- 9) **Marquee Signs.** A sign designed to have changeable copy, either manually or electronically. Marquee signs may be a principal identification sign, a freestanding sign, or a wall sign.
  - 10) **Monument Signs.** A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles.
  - 11) **Off-Premises Sign.** A sign which directs attention to or advertises a use, business, commodity, service or activity not conducted, sold or offered upon the premises where the sign is located. This term also includes those signs commonly known as advertising signs, billboards and poster panels.
  - 12) **On-Site Traffic Directional Signs.** Any on-premises sign that includes information assisting in the flow of pedestrian or vehicular traffic such as enter, exit, and one-way.
  - 13) **Pennants/Streamers/Portable Signs.** A sign, with or without a logo, made of flexible materials suspended from one (1) or two (2) corners, used in combination with other such signs to create the impression of a line.
  - 14) **Pole/Pylon Signs.** A freestanding sign that is affixed, attached, or erected on a pole that is not itself an integral part of or attached to a building or structure.
  - 15) **Post Signs.** A sign that consists of one (1) or two (2) posts on either side and is used for municipal or commercial purposes.
  - 16) **Projecting Sign.** A sign which projects more than twelve (12) inches from the face of any building or wall which supports said sign. Any sign suspended under a marquee and in a place approximately perpendicular to the wall of the building supporting the marquee shall not be deemed to be a projecting sign.
  - 17) **Roof Sign.** A sign erected, constructed or maintained in whole or in part upon or over the roof of a building or structure. Roof signs shall not include those signs maintained upon the lower slope of a mansard roof which do not extend above the uppermost point of the lower slope. Such signs shall be classified as wall signs.
  - 18) **Sandwich Board Sign:** A temporary or movable sign not secured or attached to the ground or surface upon which it is located and constructed in such a manner as to form an "A" or a tentlike shape with each angular face held at an appropriate distance by a supporting member and which may or may not be hinged at the top.
  - 19) **Temporary Sign.** Any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboards, wallboard or other materials, with or without frames, for use for a limited period of time.
  - 20) **Wall Sign.** A sign mounted or attached to and supported by the wall of any part of a building or structure, except the roof, in a plane parallel to that of the supporting wall, consisting of individual or grouped letters and/or symbols.
  - 21) **Wall Sign, Primary.** A wall sign as defined in this Zoning Ordinance that has more visual prominence on a given property through larger allowed size and location.
  - 22) **Wall Sign Secondary.** A wall sign as defined in this Zoning Ordinance that has less visual prominence on a given property through limitations on location and size.
  - 23) **Window Sign.** Any sign painted on, affixed to or placed against any window or which is placed in a display case for view from the outdoors through a window when such sign is visible from any public right-of-way.
  - 24) **Yard Signs.** A small advertising sign that is placed on a street-facing lawn.
- L) **SITE PLAN.** A scaled drawing(s) illustrating existing and proposed conditions and containing the elements required herein as applicable to the proposed development to ensure compliance with this Ordinance.
- M) **SOLAR ENERGY COLLECTION SYSTEM.** All equipment required to harvest solar energy to generate electricity, including storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items.

- N) **SOLAR ENERGY COLLECTION SYSTEM, CANOPY.** A solar energy collection system consisting of elevated solar panels installed above parking lots, carports and other paved areas.
- O) **SOLAR ENERGY COLLECTION SYSTEM, GROUND-MOUNTED.** A solar energy collection system and associated mounting hardware that is affixed to or placed upon the ground including but not limited to fixed, passive, or active tracking racking systems and located on a site.
- P) **SOLAR ENERGY COLLECTION SYSTEM, ROOF-MOUNTED.** A solar energy collection system that is structurally mounted to the roof of a building or other permitted structure, including limited accessory equipment associated with the system which may be ground mounted. It is installed parallel to the roof with a few inches gap.
- Q) **SOLID WASTE FACILITY/SOLID WASTE TRANSFER STATION.** All contiguous land, including structures, appurtenances, and other improvements on the land, used for processing, storing, or disposing of solid waste. The phrase includes a publicly or privately owned facility consisting of one (1) or several processing, storage, or disposal operational units such as landfills, surface impoundments, or a combination of units.
- R) **SPECIFIED ANATOMICAL AREAS.** For the purposes of this Ordinance shall be defined as:
- 1) Less than completely and opaquely covered: human genitals, pubic region, buttock, and 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.
- S) **SPECIFIED SEXUAL ACTIVITIES.** For the purposes of this Ordinance shall be defined as follows:
- 1) Human genitals in a state of sexual stimulation or arousal;
  - 2) Acts of human masturbation, sexual intercourse, or sodomy;
  - 3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
- T) **STORAGE YARD.** Any site, or portion thereof, that is used for the storage of any products or materials. vehicles, equipment, junk, or scrap outside the confines of an enclosed building.
- U) **STORY.** That part of a building included between the surface of any floor, excluding basements, and the surface of the next floor, or if there is no floor above, then the ceiling next above.
- V) **STREET, PRIVATE.** A privately owned and maintained thoroughfare including any rights-of-way and traveled surfaces which afford traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare. A private street shall include any drive or roadway which is not a dedicated public right-of-way, and which provides or has the potential for providing access to two (2) or more existing parcels and/or main buildings.
- W) **STREET, PUBLIC.** A public thoroughfare including any rights-of-way and traveled surfaces which afford 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.
- X) **STRUCTURAL ALTERATIONS.** Any change in the supporting members of a building such as bearing walls, columns, beams or girders, or in the dimensions or configurations, or of the roof and exterior walls or means of egress.
- Y) **STRUCTURE.** A combination of materials whether fixed or portable, anything constructed, erected, or artificially built-up which requires a location on or below the surface of land or water, including a part or parts thereof and all equipment within the structure.

### 10-21. "T" Definitions

- A) **TOWER, TELECOMMUNICATION.** Towers erected for the purpose of providing commercial wireless telecommunication services or other radio wave communications.

### 10-22. "U" Definitions

- A) **USE.** The purpose or activity for which land or structures are designed, arranged, or intended, or for which land or structures are occupied or maintained.

### 10-23. "V" Definitions

- A) **VARIANCE.** Permission given by the Board of Appeals to a property owner to depart from the literal requirements of this ordinance which may occur when compliance with this Ordinance would create a practical difficulty or unnecessary hardship on the property owner.
- B) **VARIANCE, USE.** Permission granted by the Board of Appeals to a property owner to place a use on the property or within a building on the property which is not otherwise permitted in the zoning district in which the property is located.
- C) **VEHICLE.** Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, or road, excepting devices moved by human power or used exclusively upon stationary rails or tracks.
- D) **VEHICLE FUEL SALES.** Any lot or parcel of land or portion thereof used partly or entirely for storing or dispensing flammable liquids, combustible liquids, liquified flammable gas, or flammable gas into the fuel tanks of motor vehicles.

### 10-24. "W" Definitions

- A) **WALL.** The vertical exterior surface of a building and the vertical interior surfaces which divide a building's space into rooms.
- B) **WAREHOUSE.** A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.
- C) **WATERBORNE TRANSPORTATION USES.** Portable activities which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for movement, including ports or marinas.
- D) **WATERCOURSE.** An open trench either naturally or artificially created which periodically or continuously contains moving water draining an area of at least two (2) acres which has definite banks, a bed and visible evidence of a continued flow or occurrence of water.
- E) **WATERCRAFT FUELING STATION.** The use of land involved in the temporary docking, fueling, and refueling of watercraft and boats.
- F) **WATERCRAFT.** A boat, houseboat, canoe, raft, surfboard, or other apparatus designed for use on water, including trailers therefore, and motors or engines designed to propel such craft or apparatus.
- G) **WHOLESALE ESTABLISHMENT.** An establishment 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 to such persons.

### 10-25. "Y" Definitions

- A) **YARD.** An open space 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.



- B) **YARD, FRONT.** A yard extending from the front lot line to the front setback line. On corner lots and through lots, both street lot lines are considered front lot lines without regard to location of the main entrance of the principal building.
- C) **YARD, REAR.** A yard extending from the rear setback line to the rear lot line.
- D) **YARD, SIDE.** A yard extending along the side lot line to the side setback line and located between the front and rear yards.
- E) **YARD, EXTERIOR SIDE.** A yard extending along the side lot line adjoining a public street and located between the front and rear yards.
- F) **YARD, INTERIOR SIDE.** A yard extending along the side lot line not adjoining a public street and located between the front and rear yards.
- G) **YARD SETBACK.** The horizontal distance between a front, rear, interior side, or exterior side lot line and a setback line.

### 10-26. “Z” Definitions

- A) **ZONING.** The dividing of the City into districts of a number and shape considered best suited to carry out the purposes of the Michigan Zoning Enabling Act and the creation of uniform regulations throughout each individual district. Such districts are referred to as zoning districts in this Ordinance.
- B) **ZONING ADMINISTRATOR.** The individual designated by the City to administer and enforce this Ordinance.
- C) **ZONING PERMIT.** A permit to be issued by the Zoning Administrator the purpose of which is to indicate that the activity or development being requested of the City is in compliance with all the regulations contained in this Ordinance in the situations specified in Section 8-03(C).

## Appendix A. Application Requirements

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### A-01. Site Plan Review

- A) The following information shall be required to be submitted for site plan review.
- B) **General Information:**
  - 1) The applicant's name, address, telephone number, and their interest in the project and/or property.
  - 2) The name, address, and telephone numbers of the owner(s) of record (or the firm or corporation having a legal or equitable interest in the land), and the signatures of the owners authorizing the site plan submittal.
  - 3) The name, address, and telephone number of the individual or firm preparing the site plan.
  - 4) Project title.
  - 5) Proof of property ownership or purchase agreement.
  - 6) The legal description, address, and tax identification number of the parcel.
  - 7) Written permission, signed by the property owner, granting the Planning Commission and City officials authority to enter onto property which is the subject of an application for site plan approval.
  - 8) Deed restrictions, master deed restrictions, and bylaws as applicable.
- C) **Site Analysis/Project Impact Information:**
  - 1) Existing topographic elevations at two (2) foot intervals, proposed grades, and direction of drainage flows.
  - 2) The location of existing structures on the subject site and on adjacent parcels within fifty (50) feet of subject parcel.
  - 3) Location and type of significant existing vegetation.
  - 4) Location and elevations of existing watercourses and water bodies, including county drains, and man-made surface drainage ways, floodplains, and wetlands.
- D) **Site Plan Information.**
  - 1) A vicinity map.

- 2) North arrow, and date of original submittal and all revisions.
- 3) A grading plan showing finished contours at a minimum interval of one (1) foot, and correlated with existing contours so as to clearly indicate cut and fill required (all finished contour lines are to be connected to existing contour lines at or before the lot lines).
- 4) Location of proposed and/or existing property lines with dimensions, legal description, and statement or illustration of building setback lines.
- 5) The size of parcel (in acres) and a breakdown of use areas using these categories: street rights-of-way, development area, and open space.
- 6) The gross and net acreage of all parcels in the project. (Net acreage is the size of the parcel in acres after subtracting any area that is within a street right-of-way or formal access easement.)
- 7) Land uses (residential, commercial, industrial, vacant, etc.) and zoning classification for the subject parcel and adjoining parcels.
- 8) Location of proposed buildings (including accessory buildings) and intended uses thereof, as well as the length, width, height, and total square footage of each building. For buildings housing multiple use types, the square footage for each use type shall be provided.
- 9) Indication of phases, if applicable.
- 10) Location of existing streets, street rights-of-way and private easements of record.
- 11) Location and dimensions of proposed streets, drives, curb cuts, driveway radii, access easements, deceleration/acceleration lanes or tapers, and passing lanes as applicable.
- 12) Location, design, and dimensions of proposed parking areas (including indication of all spaces, dimensions of spaces, handicapped spaces, and method of surfacing), and fire lanes.
- 13) Location, design, and dimensions of loading and unloading areas.
- 14) Location, and design of all sidewalks, walkways, bicycle paths, and areas for public use.
- 15) Location of water supply lines and/or wells including fire hydrants; a storm drainage plan showing storm sewers, exterior drains, dry wells, catch basins, retention/detention areas, and point of discharge for all drains; and sanitary sewer system, including septic systems, if applicable.
- 16) Location of all other utilities on the site.
- 17) For multifamily, mixed-use, and nonresidential uses, a photometric plan to address off-site lighting impacts.
- 18) The description of measures to be taken to control soil erosion, and sedimentation during and after completion of grading and construction operations.
- 19) Location, size, and specifications of all signs with cross-sections.
- 20) Exterior lighting locations whether pole-mounted or building-mounted and a statement that all lighting will be shielded to avoid spill over to adjacent properties or streets. If pole-mounted, the height of pole shall be included.
- 21) Location and specifications for all proposed perimeter and internal landscaping and other screening features. For all new landscape material the proposed size upon installation shall be indicated. Existing landscaping to be retained shall also be indicated.
- 22) Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.

23) Seal of the registered engineer, architect, or surveyor who prepared the site plan.

E) **Waiver of Site Plan Requirements.** Specific requirements of this section may be waived by the Planning Commission where it is determined that such information is not applicable or necessary for the subject request.

## A-02. Special Use Permit

A. **Application and Fee.** The following materials shall be submitted to the Zoning Administrator at least 21 days prior to the meeting at which the Planning Commission first considers the special land use application. Sufficient copies of the application, site plan, and other written and graphic instruments shall be provided in accordance with the requirements set forth by the Planning Commission:

1. Payment of the required fee.
2. Copies of a site plan meeting the requirements of Section A-01.
3. Completed and signed application form. A notarized, written statement from the property owner indicating his/her permission to submit such application, if the applicant is not the owner.

## A-03. Planned Unit Development

A. **Application Submittal.** At a minimum, the PUD application shall include sufficient copies of the following:

1. A completed application form as provided by the City along with the required fee as established by the City Council. Such application shall include a signature of the owner or party having an equitable interest in the property, authorizing the submittal of the PUD.
2. The applicant shall submit a draft of the site development regulations proposed for the property and the project. These regulations may address uses permitted, setbacks, building materials, landscape guidelines, parking requirements, utility standards, and other similar site development regulations. For any site development standard not addressed in this draft the zoning ordinance standards shall apply.
3. The site development plan prepared in accordance with the Site Plan Review requirements. For multi-phased PUD's the site development plan may be submitted for Phase 1 of the project, with a conceptual plan being shown for the remaining phases. A conceptual plan shall consist of identification of uses, residential density, estimated parcel or lot sizes, and the general street layout. Subsequent phases shall be required to undergo the full site plan review process, and shall be required to meet the requirements of the zoning ordinance and the PUD ordinance as applicable.
4. In addition to the information required for submittal for site plan review, the following information shall also be submitted, unless waived by Planning Commission at the pre-application conference.
5. A general description of the project and a statement of how the PUD meets the intent of Article 7, and how the PUD meets the qualifying conditions stated in Section 7-01.
6. Architectural sketches showing building heights, external wall finishes, location of building entry ways, lighting elements, and other architectural features.
7. Site plan information not required in Section A-01, but required to show compliance with the proposed PUD standards of review in Section 7-05.
8. A list of departures from Zoning Ordinance regulations that will be required, and a statement of why these departures will not present a design problem from a planning perspective.
9. Legal documentation of a single ownership or control in the form of agreements, contracts, covenants, or 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.

10. A construction schedule detailing the completion of the proposed improvements. project phasing shall also be identified if applicable.
11. Depending on the size and complexity of the project, the City staff, Planning Commission, or City Council may request other information deemed pertinent to the proposed development. Such information may include, but is not limited to: traffic assessment, environmental impact assessment, fiscal impact assessment, market needs assessment, and utility impact assessment.
12. The application shall not be considered complete, and shall not be considered formally accepted by the City, until it is reviewed by the City and been found to have all required submittal information and appropriate fees.

#### A-04. Map/Text Amendment

- A. An application for a zoning change shall consist of:
  1. A written statement from the property owner indicating his/her permission to submit such application, if applicable.
  2. Payment of a fee, as established from time to time by the City Council.
  3. A map clearly showing the property to be considered for the zoning change, including all properties within 1/4 mile of the subject property and the current zoning of all such properties.
  4. A legal description of the property to be considered for the zoning change and the parcel's tax identification number.
  5. For a text amendment, the exact wording proposed for change in the zoning ordinance shall be submitted.
  6. A statement of why the proposed zoning change is desired and any other materials the applicant feels would support their request.

#### A-05. Variance

- A. **Filing.** The party from whom the appeal is taken shall immediately transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed was taken. These papers shall include a completed application form and site plan along with staff review comments. Said site plan shall include the following information:
- B. **Project Information, Including.**
  1. The applicant's name;
  2. North arrow;
  3. Complete and current legal description and size of property in acres;
  4. Size of property in acres or square feet;
  5. A survey shall be required for dimensional variance.
- C. **Existing Features.**
  1. Property lines and dimensions;
  2. Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the site;

3. Lot lines and all structures on the property;
4. The Zoning Board of Appeals may require buildings and structures within 100 feet of the site's property lines to also be shown.
5. Proposed construction.
6. Building footprints, setbacks, and building height; and
7. Location and dimensions of parking spaces (if applicable).
8. Additional information may be required by the Zoning Board of Appeals, including, but not limited to:
  - a. Existing and proposed topography;
  - b. Location and method of screening waste dumpsters;
  - c. A landscaping plan;
  - d. Details of exterior lighting;
  - e. Details of site circulation and access design;
  - f. Any information specified in Section A-01 which the Zoning Board of Appeals determines to be necessary in order to properly evaluate the request and render a decision.
9. A completed application form, supplied by the Zoning Administrator, and an application fee.

#### A-06. Marjihuana Retail Special Use Permit

- A. **Application Requirements.** An application for a marihuana retailer special land use shall be accompanied by a site plan pursuant to Article 19 of the City of New Buffalo Zoning Ordinance, along with any additional information necessary to describe the proposed establishment. At a minimum, the following materials shall be submitted as part of an application, in addition to the special land use application requirements of Article 17 of the City of New Buffalo Zoning Ordinance.
  1. **Verification.** A signed statement by the applicant indicating the proposed establishment type, including any requested special licenses, provided that such special licenses are authorized by the City of New Buffalo and by applicable Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.
  2. **Consent.** A notarized statement by the property owner that acknowledges use of the property for a marihuana retailer and agreement to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising out of, or in connection to, the operation of a marihuana establishment. Written consent shall also include approval of the owner and operator for the City to inspect the establishment at any time during normal business hours to ensure compliance with applicable laws and regulations.
  3. **State License.** A copy of official paperwork issued by LARA indicating that the applicant has successfully completed the application for a state operating license. Copies of all documents submitted to LARA in connection with the initial license application, subsequent renewal applications, or investigations conducted by LARA shall be provided to the City.
  4. A provisional license issued by the City pursuant to Chapter 22 of the City Code is not required in order to apply for special land use approval for a marihuana retailer. When a license from the City has not yet been obtained prior to applying for a special land use, the planning commission shall require a license from the City as a condition of special land use approval.
- B. **Additional site plan requirements.** In addition to the site plan requirements in Article 19 of the City of New Buffalo Zoning Ordinance, the following information shall also be submitted:

1. A map, drawn to scale, containing all preschools, K-12 public or private schools, and religious institutions near the proposed marihuana establishment location and a 1,000-foot isolation radius drawn around the proposed location to show an appropriate setback distance.
2. A narrative describing how the enclosed areas with marihuana have been secured and how permitted individuals will be given access.
3. A detailed security plan that addresses all security measures of the marihuana retailer in compliance with all applicable Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.
4. A lighting plan showing the lighting outside of the marihuana establishment for security purposes and compliance with any other applicable City requirements.
5. Existing and proposed building elevations, including building materials, window calculations, descriptions of glass to be used, and other pertinent information that describes building construction or structural alterations.
6. A floor plan of the marihuana establishment detailing the locations of the following:
  - a. All entrances and exits to the establishment.
  - b. The location of any windows, skylights, and roof hatches.
  - c. The location of all cameras, and their field of view.
  - d. The location of all alarm inputs (door contacts, motion detectors, duress/hold up devices) and alarm sirens.
  - e. The location of the digital video recorder and alarm control panel, including the location of the off-site storage or network service provider for storage of the required copies of surveillance recordings, and
  - f. Restricted and public areas.
7. The applicant's procedures for accepting delivery of marihuana at the marihuana retailer, including procedures for how and where it is received, where it is stored, and how the transaction is recorded.

## A-07. Comprehensive Sign Plan

- A. **Application.** A comprehensive sign plan shall be submitted on a form established by the Zoning Administrator. The application shall contain the following information as well as all other information required by the Zoning Administrator to ensure compliance with the comprehensive sign plan evaluation criteria.
1. Name, address, and telephone number of the applicant.
  2. Location of building, structure, or lot to which or upon which the comprehensive sign plan shall apply.
  3. Name of person, firm, corporation, or association developing the comprehensive sign plan.
  4. Written consent of the owner or lessee of the building, structure, or land to which the proposed comprehensive sign plan is applicable.
  5. Scale drawing of all signs included in the comprehensive sign plan indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment. Said drawings shall be drawn at a scale no smaller than one-eighth (1/8) inch equals one (1) foot and shall be prepared, signed, and sealed by a registered professional engineer when required by the Zoning Administrator.
  6. A scaled drawing indicating the location and position of all signs included in the comprehensive sign plan in relation to nearby buildings or structures. Said drawing shall be at a scale no smaller than one (1) inch equals fifty (50) feet.