

## CHAPTER 30 - ZONING

**30-1 SHORT TITLE.** This Chapter shall be known as the "City of Three Rivers Zoning Ordinance".

**30-2 INTENT AND PURPOSE.** The intent of this Chapter is to protect the public health, safety and general welfare of the community and its people through the establishment of minimum regulations governing development and use. This Chapter shall divide the City into use districts and establish regulations in regard to location, erection, construction, alteration and use of structures and land. The regulations are established to protect the use areas; to promote orderly development and redevelopment; to provide adequate light, air and convenience of access to property; to prevent congestion in the public right-of-way; to prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards and density of population; to provide for compatibility of different land uses; to provide for administration of this Chapter; to provide for amendments; to prescribe penalties for violation of the regulations; and to define powers and duties of the Zoning Administrator, Planning Commission, Zoning Board of Appeals, and the City Commission in relation to the Zoning Ordinance.

**30-3 MINIMUM REQUIREMENTS.** Where the conditions imposed by any provision of this Chapter are either more or less restrictive than comparable conditions imposed by another ordinance, rule or regulations of the City, the ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirement shall prevail. The Zoning Administrator shall determine which is more "restrictive". Appeals from the Administrator's determination may be made in the manner provided in this Chapter. The provisions of this Chapter shall be the minimum requirements for the promotion of the public health, safety and welfare.

**30-4 USES NOT PROVIDED FOR WITHIN ZONING DISTRICTS.** Whenever in any zoning district a use is not specifically permitted or denied, the use shall be considered prohibited. In such case, the City Commission, on its own initiative or upon request, may amend this Chapter in accordance with the process outlined in Section 30-33 to allow such use in a particular zoning district and specify conditions and standards relating to development of the use that would be most appropriate.

**30-5 RULES OF CONSTRUCTION.** This Chapter shall be interpreted in accordance with the following rules of construction:

- (1) The singular number includes the plural, and the plural the singular.
- (2) The present tense includes the past and the future tenses, and the future the present, unless the context clearly indicates the contrary.
- (3) The word "shall" is mandatory; the word "may" is permissive.
- (4) The masculine gender includes the feminine and neuter.
- (5) All measured distances expressed in feet shall be to the nearest tenth of a foot.
- (6) The particular shall control the general.
- (7) In the case of any difference of meaning or implication between the text of this Chapter and any caption or illustration, the text shall control.
- (8) A "building" or "structure" includes any part thereof.
- (9) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- (10) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
  - (a) "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - (b) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
  - (c) "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- (11) Terms not herein defined shall have the meaning customarily assigned to them.

**30-6 SEPARABILITY.** The provisions of this Chapter are separable in accordance with the following:

- (1) If any court of competent jurisdiction shall adjudge any provisions of this Chapter to be invalid, the judgment shall not affect any other provision of this Chapter not specifically included in the judgment.
- (2) If any court of competent jurisdiction shall adjudge invalid the application on any provision of this Chapter to a particular property, building, or other structure, the judgment shall not affect the application of that provision to any other property, building, or structure not specifically included in the judgment.

**30-7 AUTHORITY.** This chapter is enacted pursuant to the authority granted by the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

**30-8 DEFINITIONS (As used in this Chapter):**

**Accessory Building** means a type of structure that has a roof which is supported by columns or walls, is intended for the shelter or enclosure of persons, animals, goods or property, and is further intended to be used in a manner that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same lot as the principal use to which it is exclusively related. Examples of accessory buildings include garages, storage sheds, gazebos, play houses, greenhouses, pump house. (Ord. 820; 2-20-2018)

**Accessory Structure** means anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location, and that is intended to be used in a manner that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same lot as the principal use to which it is exclusively related. Examples of accessory structures include accessory buildings, swimming pools, play structures, HVAC units, generators, and tennis courts. (Ord. 820; 2-20-2018)

**Accessory Use** means a use that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same lot as the principal use to which it is exclusively related.

**Adult Foster Care, as defined by the Adult Foster Care Facility Licensing Act (PA 218 of 1979, as amended),** means a governmental or nongovernmental establishment that provides foster care to adults. Adult foster care facility includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis, but who do not require continuous nursing care.

- (1) Adult Foster Care Home, Family means 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 for two (2) or more consecutive weeks. The licensee shall be a member of the household and an occupant of the residence.
- (2) Adult Foster Care Home, Small Group means an adult foster care facility with the approved capacity to receive twelve (12) or fewer adults to be provided with foster care for five (5) or more days a week for two (2) or more consecutive weeks.
- (3) Adult Foster Care Home, Large Group means 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 for five (5) or more days a week for two (2) or more consecutive weeks.
- (4) Adult Foster Care Congregate Facility means an adult foster care facility with the approved capacity to receive more than twenty (20) adults to be provided with foster care.

**Agricultural Land** means substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

**Alley** means a public right-of-way not intended for general traffic circulation which affords secondary access to abutting property.

**Apartment** means one or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling unit in a building containing more than one dwelling unit.

**Automobile Repair-Major** means general repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint job; vehicle steam cleaning.

**Automobile Repair-Minor** means repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor services to passenger automobiles and trucks not exceeding a gross vehicle weight rating (GVWR) of ten thousand (10,000) pounds, but not including any operation specified under "Automobile repair-major".

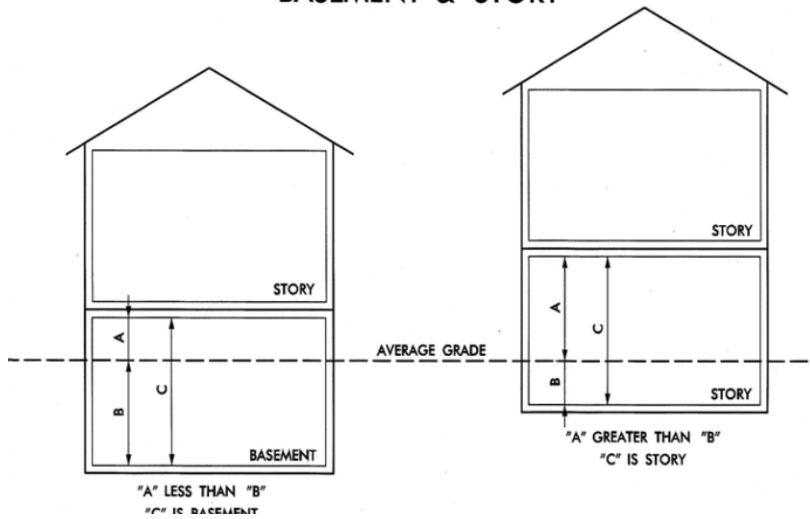
**Automobile Wrecking or Junk Yard** means any place where two (2) or more vehicles not in running condition and/or not licensed, or parts thereof, are stored in the open and are not being restored to operation; or any land, building or structure used for wrecking or storing of such motor vehicles, or parts, including any commercial salvaging and scavenging of any other goods, articles or merchandise.

**Banner** means attention-getting devices which resemble flags and are of a paper, cloth or plastic-like consistency.

**Base Flood** means the flood having a one (1%) percent chance of being equaled or exceeded in any given year.

**Basement** means that portion of a building which is partly or completely below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story (see Basement & Story Figure).

**BASEMENT & STORY**



**Bed and Breakfast** means a single family residential structure which has eight (8) or fewer sleeping rooms including sleeping rooms occupied by the innkeeper, one or more of which rooms are available for rent to transient overnight guests with breakfast provided only to residents and registered guests at no extra charge.

**Billboards** See "Sign - Advertising"

**Block** means that property abutting on one (1) side of a street and lying between the two (2) nearest intersecting or intercepting streets or railroad right-of-way or subdivided acreage.

**Boarding House** means a building other than a hotel, motel, or bed and breakfast where, for compensation and by prearrangement for definite periods, meals, or lodging and meals are provided to two (2) or more persons, not of the principal family therein, but not including a building providing these services for more than ten (10) persons.

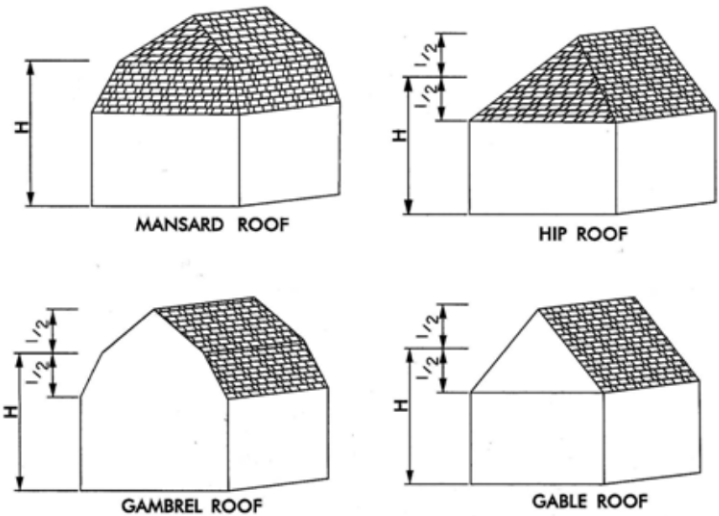
**Boulevard** means the portion of a street right-of-way not occupied by pavement or surface area for vehicular traffic.

**Buildable Area** means the portion of a lot remaining after required yards have been provided.

**Building** means a structure erected on-site, a mobile home or mobile structure, a pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals, or property of any kind.

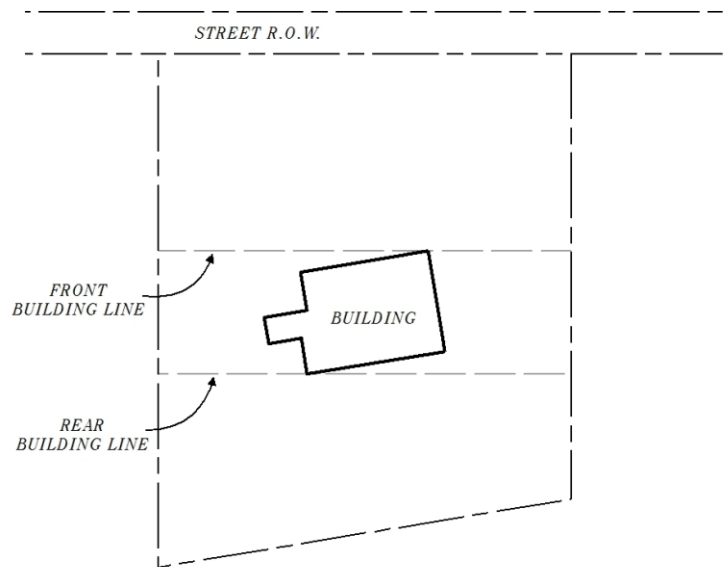
**Building Height** means a distance to be measured from the grade level to the top of a flat roof, to the deck line of mansard roofs, and to the average height between eaves and ridge for gable, hip and gambrel roofs, or to a point equivalent to the foregoing on any other roof. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall (see Building Height Figure).

### BUILDING HEIGHT



**Building Line** means a line measured across the width of the lot at the point where the principal structure is placed in accordance with setback provisions (see Building Line Figure).

### BUILDING LINE



**Building Official** means the person or persons responsible for the enforcement of applicable building codes.

**Business** means any establishment, occupation, employment or enterprise where merchandise is manufactured, exhibited or sold, or where services are offered for compensation.

**Carpport** means a canopy constructed of metal or other materials supported by posts either ornamental or solid and completely open on two (2) or three (3) sides.

**Child Care Organization**, as defined by the Child Care Organizations Act (PA 116 of 1973, as amended), means a governmental or nongovernmental organization having as its principal function the receiving of minor children for care, maintenance, training and supervision, notwithstanding that educational instruction may be given. Child care organizations include organizations, agencies, children’s camps, child care centers, day care centers, nursery schools, parent cooperative preschools, foster homes, day care group homes, or day care family homes.

- (1) Child Care Home, Family means a private home in which one (1) but fewer than seven (7) minor children

are received for care and supervision for periods 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. Care is given for more than four (4) weeks during a calendar year.

- (2) **Child Care Home, Group** means a private home in which more than six (6) but not more than (12) minor children are given care and supervision for periods 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. Care is given for more than four (4) weeks during a calendar year.
- (3) **Day Care Center** means a facility, other than a private residence, receiving one (1) or more preschool or school-age children for periods of less than twenty-four (24) hours a day, and where parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. May also be referred to as a child care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center.

**Club or Lodge** means a group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and by-laws.

**Cluster Development** means a development pattern for residential, commercial, industrial, institutional, or combination of such uses in which the uses are grouped or "clustered" through a density transfer, rather than spread evenly throughout a parcel, as in conventional lot-by-lot development.

**Commercial Vehicle** means a Vehicle with Commercial Vehicle Identification. For the purposes of this definition, Government vehicles shall not be considered commercial vehicles. (Ord. 834; 12-3-2019)

**Commercial Vehicle Identification** means a sign, symbol or other form of identification, including U.S. Department of Transportation (USDOT) and Motor Carrier (MC) stickers or numbers, which is permanently mounted or otherwise permanently affixed to a vehicle and which identifies the business, products or services for which the vehicle is used for or related to. For purposes of this definition, magnetic and adhesive signs and symbols shall be considered as being permanently affixed. Bumper stickers and similar size adhesive decals (not associated with the use of the vehicle) shall not be considered a form of commercial vehicle identification. (Ord. 834; 12-3-2019)

**Communication Tower** means any structure, whether free-standing, or attached to an existing building or structure, that is designed and constructed primarily for use with a wireless communication facility and for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or mono-pole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. Communication Towers are not defined as an essential use.

**Conditional Use** means use that, because of the special control problems the use presents, requires effectuation of reasonable but special limitations peculiar to the use for the protection of the public welfare and the integrity of the City's land use plan.

**Condominium** means a system of separate ownership of individual units and/or multiple-unit projects according to the provisions of the Michigan Condominium Act, Public Act 59 of 1978, as may be amended. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners.

**Contractors' Offices, Shops and Yards** means a building or buildings and area where a building, plumbing, electrical, heating and cooling, glazing, painting, paper hanging, roofing, communications, masonry or refrigeration company operates its business and stores equipment and supplies.

**Development** means any man-made change to improved or unimproved land, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**Dish** means that part of a satellite signal receiving antenna characteristically shaped like a saucer or dish.

**Dish Type Satellite Signal Receiving Antenna** See "Satellite Dish Antenna".

**District** means a section or sections of the City for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.

**Domestic Assault Shelter** means a dwelling providing temporary residential facilities for family or household members who are victims of domestic violence.

**Donation Box** means any metal container, receptacle, or similar device that is located on any parcel or lot of record within the City and that is used for soliciting and collecting donations of clothing, household items, or other salvageable personal property. This term does not include recycle bins for the collection of recyclable material, any rubbish or garbage receptacle or any donation box located within an enclosed building.

**Dwelling - Mobile Home** means a structure, transportable in one (1) or more sections, which is built on a chassis

and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle. Mobile homes which do not conform to the standards of this Chapter contained in the definition for "single-family" under "dwellings" shall not be used for dwelling purposes within the City unless located within a mobile home park or a mobile home plat zoned for such uses.

**Dwelling - Multiple Family** means a building containing three (3) or more dwelling units designated for residential use and conforming in all other respects to the standards set forth in the definition for "Dwelling Single Family".

**Dwelling Single family** means a building containing not more than one (1) dwelling unit designed for residential use, complying with the following standards:

- (1) It complies with the minimum square footage requirements of this Chapter for the district in which it is located.
- (2) Complies in all respects with applicable building codes, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any Federal or State standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the City Building Code, then and in that event such Federal or State standard regulations shall apply.
- (3) It is attached to an approved frost free crawl space or basement of the same perimeter dimensions as the dwelling. The foundation shall be designed in accordance with the State Building Code.
- (4) In the event that a dwelling is a mobile home, it shall be installed with the wheels removed. No mobile home shall have any exposed towing mechanism, undercarriage or chassis.
- (5) The dwelling shall be connected to a public sewer and water supply.
- (6) The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten (10%) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
- (7) The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity. The following standards shall be used in determinations of acceptable similarity in appearance between dwelling units:
  - (A) The dwelling shall have a minimum width of twenty (20') feet across any front, side or rear elevation.
  - (B) In general, any roofing material may be used that is generally acceptable material if applied in a manner consistent with other dwellings in the vicinity.
  - (C) The dwelling shall have a roof overhang of not less than six (6") inches on all sides, or alternatively, window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.
  - (D) The dwelling shall have not less than two (2) exterior doors, one (1) of which shall be at the rear or side of the dwelling. Steps to exterior doors shall be provided where a difference in elevation exists between the bottom of the door and the ground.
  - (E) Any materials that are generally acceptable as determined by dwelling units in the vicinity may be used for exterior finish if applied in such a manner as to be similar in appearance provided, however, that reflection from such exterior shall not be greater than from siding coated with clean, white, gloss, exterior enamel.
  - (F) The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling. Plans which do not conform to the standards of this Chapter shall be submitted for site plan review and approval in accordance with Section 30-36 and Chart 5.
  - (G) Any determination of compatibility shall be based upon the standards set forth in this definition of "Dwelling Single Family" as well as the character, design and appearance of one (1) or more residential dwellings located outside of mobile home communities and within two-thousand (2,000') feet of the subject dwelling where the area is developed with dwellings to the extent of not less than twenty (20%) percent of the lots situated within the area; or, where the area is not so developed, by the character, design and appearance of one (1) or more residential dwellings located outside of mobile home communities throughout the City. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

- (8) The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required by this Chapter.
- (9) The dwelling complies with all applicable building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to the mobile home shall be on a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as those standards may be amended from time to time. All dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- (10) The foregoing standards shall not apply to a mobile home located in a licensed mobile home community except to the extent required by State or Federal law or otherwise specifically required in this Chapter.
- (11) All construction required herein shall be commenced only after a building permit has been obtained in accordance with applicable City building code provisions and requirements.

**Dwelling - Two Family** means a building containing not more than two (2) separate dwelling units designed for residential use and conforming in all other respects to the standards set forth in the definition for "Dwelling Single Family".

**Dwelling Unit** means a residential building or portion thereof intended for occupancy by a family, but not including bed and breakfasts, hotels, motels, nursing homes, seasonal cabins, boarding or rooming houses, tourist homes, or trailers.

**Efficiency Apartment** means a dwelling unit consisting of one (1) principal room exclusive of bathroom, hallway, closets, or dining alcove.

**Essential Services** means the erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems by public utilities, municipal or other governmental agencies, but not including buildings. Communication Towers are not defined as an essential service.

**Family** means a person living alone, or two (2) or more persons customarily living together as a single housekeeping unit in a dwelling unit as distinguished from a group occupying a hotel, club, religious or institutional building, boarding or lodging house, or fraternity or sorority house.

**Fence** means any portion structure, wall or gate erected as a dividing marker, barrier, or enclosure.

**Fence-Boundary Line** means all fences located on or within five (5') feet of a property line.

**Fence-Interior Yard** means all fences located five (5') feet or more beyond a property line.

**Flood or Flooding** means a general and temporary condition of partial or complete inundation of normally dry land area from:

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

**Flood Hazard Area** means land which on the basis of available floodplain information is subject to a one (1%) percent or greater chance of flooding in any given year.

**Flood Hazard Boundary Map (FHBM)** means the official map of the City, issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazards have been designated as Zone A.

**Floodplain** means any land area susceptible to being inundated by water from any source (see definition of "Flood").

**Floodway** means the channel of a river or other watercourse and the adjacent land areas which must be reserved in order to discharge the base flood.

**Floor Area** means the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls, devoted to dwelling units, retailing activities, to the production, storage or processing of goods, or to business or professional offices. Floor area shall not include areas of basements, unfinished attics, attached garages, breezeways, utility rooms, and enclosed and unenclosed porches other than area devoted to the above-mentioned uses.

**Garage-Private** means an accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident upon the premises, and in which no business service or industry is carried on.

**Grade (adjacent ground elevation)** means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five (5')

feet from the building, between the building and a line five (5') feet from the building.

**Grading** means changing the natural or existing topography of land.

**Ground Station** See "Satellite Dish Antenna".

**Grounding Rod** means a metal pole permanently positioned in the earth to serve as an electrical conductor through which electrical current may safely pass and dissipate.

**Health Department** means the Branch-Hillsdale-St. Joseph County Health Department.

**Height** See "Building Height"

**Home Improvement Center** means a retail business offering for sale building materials and home improvement products to home owners and contractors with at least seventy (70%) percent of the merchandise being stored or displayed in entirely enclosed structures.

**Home Occupations** means an occupation or profession conducted within a dwelling unit or on a residential lot by the inhabitants thereof, where such use is clearly incidental to the principle use of the dwelling as a residence, and where such use complies with the conditions and limitations as specified in this Chapter.

**Housing for the Elderly** means an institution which provides room and board to non-transient persons primarily fifty-five (55) years of age and older. Housing for the elderly may include the following:

- (1) **Senior Apartment.** Multiple-family dwelling units occupied by persons fifty-five (55) years of age or older.
- (2) **Elderly Housing Complex.** A building or group of buildings containing dwellings where the occupancy is restricted to persons fifty-five (55) years of age or older or couples where either the husband or wife is fifty-five (55) years of age or older.
- (3) **Congregate Housing.** A type of semi-independent housing facility containing a common kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support service, such as transportation and limited medical care.
- (4) **Dependent Housing Facilities.** Facilities such as nursing homes which are designed for older persons who need a wide range of health and support services, including personal nursing care.

**Junk Yard** means land or building where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled or handled, including, but not limited to, scrap, metal, rags, paper, hides, rubber products, glass products, lumber products, and products resulting from the wrecking of automobiles or other vehicles.

**Kennel** means an establishment in which more than three (3) dogs or domesticated animals more than one (1) year old are housed, groomed, bred, boarded, trained or sold.

**Loading Space or Berth** means a space accessible from a street, alley way, in a building or on a lot, for the use of vehicles while loading and unloading merchandise, materials or passengers.

**Lot** means land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this Chapter, having not less than the minimum areas required for a building site in the district in which such lot is situated and having its principal frontage on a street, or a proposed street approved by the City Commission.

**Lot Area** means the total area within the lot lines of a lot.

**Lot Area per Unit** means the lot area required by this Chapter to be provided for each family in a dwelling.

**Lot of Record** means a parcel of land, whether subdivided or otherwise legally described as of August 22, 1983, or approved by the City as a lot subsequent to such date and which is occupied by or intended for occupancy by one (1) principal building or principal use together with any accessory buildings and such open spaces as required by this Chapter, and having its principal frontage on a street, or a proposed street approved by the City Commission.

**Lot, Corner** means a lot situated at the junction of and abutting on two (2) or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty five (135°) degrees or less (See Interior Corner & Double Frontage Lots Figure).

**Lot Depth** means the shortest horizontal distance within the lot boundaries between the front lot line and the rear lot line measured from a ninety (90°) degree angle from the street right-of-way (See Lot Depth & Lot Width Figure)..

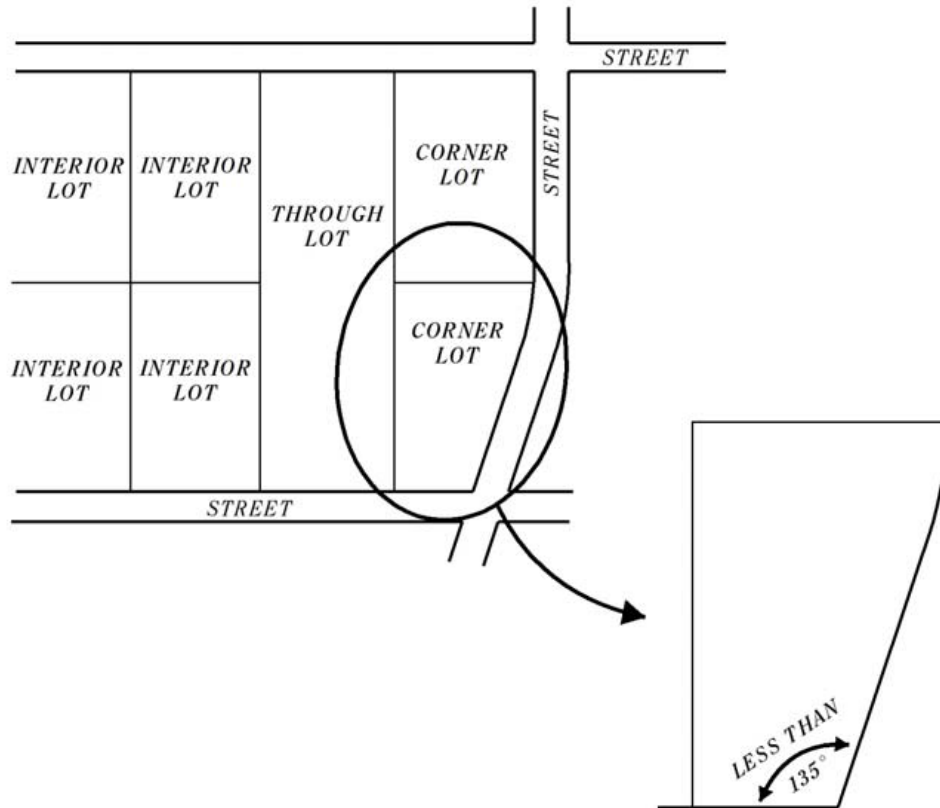
**Lot, Double Frontage** means an interior lot having frontage on two (2) parallel or non-intersecting streets. In the case of a row of double frontage lots, one (1) street shall be designated as the front street in the plat and in the application for the building permit; or, if there are existing buildings in the same block fronting on one or both of the streets, the required minimum front yard setback shall be observed on those streets where buildings presently front

(See Interior, Corner & Double Frontage Lots Figure).

**Lot Frontage** means that boundary abutting a street right-of-way.

**Lot, Interior** means any lot other than a corner lot (See Interior, Corner & Double Frontage Lots Figure).

### INTERIOR, CORNER & DOUBLE FRONTAGE LOTS



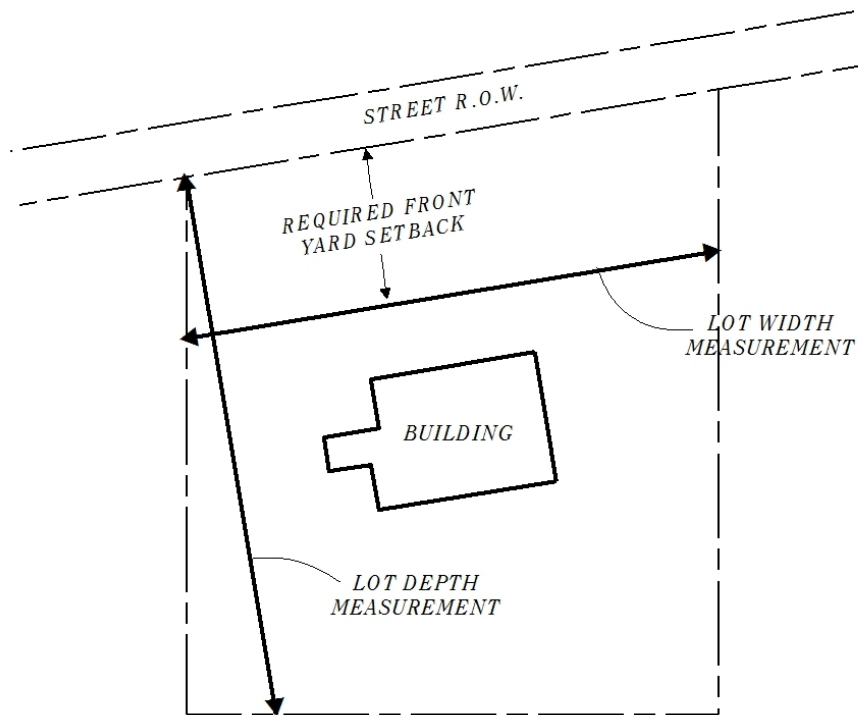
**Lot Line** means the lines bounding a lot as defined herein:

- (1) **Front Lot Line.** In the case of an interior lot, the front lot line shall mean that line separating said lot from the street. In the case of a corner lot, both lot lines abutting on streets shall be treated as front lot lines. In the case of a double frontage lot, the front lot line shall mean that line separating said lot from that street which is designated as the front street in the plat and in the application for a building permit.
- (2) **Rear Lot Line.** That lot line opposite the front lot line. In the case of irregular, triangular, wedge shaped, or lots pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten(10) feet long lying farthest from the front lot line and wholly within the lot.
- (3) **Side Lot Line.** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**Lot, Through** See "Double Frontage Lot".

**Lot Width** means the shortest horizontal distance between the side lot lines measured at right angles to the lot depth and measured at the required minimum building setback line (See Lot Depth & Lot Width Figure).

## LOT DEPTH & LOT WIDTH



**Mezzanine** means an intermediate or fractional story between the floor and ceiling of a main story occupying not more than thirty (30) percent of the floor area of such a main story.

**Medical/Dental Clinic** means a structure intended for providing medical and dental examinations and service available to the public, with no overnight care available.

**Mezzanine** means an intermediate or fractional story between the floor and ceiling of a main story occupying not more than thirty (30) percent of the floor area of such main story.

**Mobile Home** See "Dwellings".

**Mobile Home Community** means a parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home, and which is not intended for use as a temporary trailer park.

**Mobile Vending Unit** or "MVU" means a Transient Merchant or Transitory Food Unit (e.g., including food trucks), as defined in Chapter 5 of the City Code and Ordinance No. 822. (Ord 850; 7-6-2021)

**Mobile Vending Court** means an area where two (2) or more mobile vending units can be established, following Chapter 5 of this Code, in which electrical service and other utilities may be provided to vendors, and a portion of the area is used as a place for the community to gather. (Ord 850; 7-6-2021)

**Name plate** means a sign indicating the name and address of a building or the name of an occupant thereof and the practice of a permitted occupation therein.

**Non-Conforming Structure or Use** means any structure or use which on August 22, 1983, did not, even though lawfully established, conform to the applicable conditions if the structure or use was to be erected under the guidance of this Chapter.

**Nursing Home (Rest Home)** means a building having accommodations where care is provided for two (2) or more invalids, infirm, aged convalescent or physically disabled persons that are not of the immediate family; but not including hospitals, clinics, sanitariums, or similar institutions.

**Off-Street Loading Space** means a space accessible from the street, alley or way, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials.

**Operable Vehicle** means a vehicle that is capable of readily performing the function for which it was manufactured, including having wheels with inflated tires and an engine or other motorized means so that the vehicle can be driven.

**Outdoor Solid Fuel-fired Furnace** means a boiler or furnace, fueled by wood, coal, corn or other types of solid fuel, located outside of the structure it is intended to heat and designed or used to provide indoor heat and/or hot water. This definition does not apply to furnaces or boilers fueled by natural gas, propane, or fuel oil if the furnace or boiler is constructed and used in compliance with the City Code and inspected and approved by the City's Building Official.

**Outdoor Wood-Fired Boiler** means a wood-fired boiler, stove or furnace that is not located within a building intended for habitation by humans or domestic animals.

**Overlay Zone** means a set of zoning requirements, as provided in this Chapter, which are mapped and are imposed in addition to those of the underlying district. Developments within the overlay zone must conform to the requirements of both zones, or the more restrictive of the two (2) zones.

**Parking Area** means an open area, other than a street or other public way, used for parking of three (3) or more motor vehicles and available for public use whether for fee or as an accommodation for customer, clients, or residents.

**Parking Space** means an area enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one (1) automobile, which has adequate access to a public street or alley and permitting satisfactory ingress and egress on an automobile.

**Parking Stall** See "Parking Space".

**Permitted Use** means use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.

**Person** means an individual, firm, partnership, association, corporation, or organization of any kind.

**Planned Unit Development (PUD)** means a form of development usually characterized by a unified site design for a number of housing units, clustering buildings, provision of common open space, density increases, and a mix of buildings types and land uses.

**Porch** means an exterior appendage to a building forming a covered approach to a doorway, which when sealed with permanent windows and used for dwelling purposes ceases to be an appendage to the building and is counted as part of the basic structure.

**Principal Use** means the main use of land or buildings as distinguished from subordinate or accessory uses. A "Principal Use" may be either permitted or conditional.

**Private or Semi-Private** means not open to the public, not publicly owned, or not otherwise regulated by the State, either by statute or by rules or regulations promulgated by a State administrative agency.

**Public Place of Worship** means a building, together with its permitted accessory buildings and structures, where persons regularly assemble for religious worship; including churches, mosques, chapels, temples, and synagogues.

**Receiver** means that part of a satellite signal receiving antenna characteristically shaped like a saucer or dish.

**Recreational Vehicle** means a self-propelled or other vehicle which is used, intended to be used, or designed as to permit its being used, primarily for recreational purposes, vacation or leisure travel. Examples of recreational vehicles include, but are not limited to, any type of motor home, camper, all-terrain vehicle, travel trailer, house trailer, boat, bus, camper, trailer coach, personal watercraft, snowmobile, or other similar equipment, vehicle or transportable unit.

**Recycling Facility** means a recycling facility operated by a recycling dealer (including any corporation, partnership or any other commercial enterprise) who shall conduct or maintain as a business any building, structure, yard or place for keeping, sorting, storing, exchanging, buying or selling (including selling by consignment) any old or used recyclable or reusable material of any kind, including cloth, rags, paper, rubbish, rubber, bottles, iron, steel, brass, copper or any other metals, old boxes, cartons, crates, plastics, rubber tires, glass, or refuse or dismantled or cannibalized vehicles or vehicle parts, equipment or liquids from such vehicles.

**Resource Recovery Facility** see "Recycling Facility".

**Roof Line** means the top of the coping, or when the building has a pitched roof, the intersection of the outside wall with the roof.

**Satellite Dish Antenna** means one, or a combination of two or more of the following:

- (1) A signal receiving device (antenna, dish antenna, or dish type antenna), the purpose of which is to receive communication or other signals from satellites in earth orbit or other extraterrestrial sources.
- (2) A low noise amplifier (LNA) which is situated at the focal point of the receiving component and the purpose of which is to magnify, store, transfer and/or transmit electronic or light signals.

(3) A coaxial cable, the purpose of which is to carry or transmit signals to receivers.

**Screening** means the presence of an artificial barrier, vegetation, or topography which makes any structure visually inconspicuous.

**Setback** means the distance between a building and street right-of-way or lot line. Distances are to be measured from the building foundation at ground level, excluding steps and unenclosed porches.

**Setback, Minimum Required** means the minimum distance between a front, side or rear lot line and the nearest part of the structure in order to conform to the required yard setback provisions of this Chapter.

**Sign** means the use of any words, numerals, figures, devices or trademarks by which anything is made known such as are used to show an individual, firm, profession or business and are visible to the general public.

**Sign, Advertising** See "Signs, Off-Premises advertising".

**Sign Area** means the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of the advertising message, together with any frame or other material or color forming an integral part of the display, message, drawing, or similar device, or used to differentiate same from the background against which it is placed, excluding the necessary supports braces, or uprights of the sign.

**Sign, Area Identification** means a freestanding sign which identifies the name of a residential subdivision consisting of twenty-three (23) or more structures; an office or business structure containing three (3) or more independent concerns; a single business consisting of three (3) or more separate structures existing on individual platted lots or as a planned unit development; or any integrated combination of the above. A sign shall be limited to the identification of an area or complex and shall not contain the name of individual owners or tenants nor contain advertising.

**Sign, Bulletin Board** means a sign which identifies an institution or organization on the premises on which it is located, and which contains the name of the institution or organization, the names of individuals connected with it, and general announcements of events or activities occurring at the institution.

**Sign, Business** means any sign which identifies a business or group of businesses, either retail or wholesale, or any sign which identifies a profession or is used in the identification or promotion of any principal commodity or service, including entertainment, offered or sold upon the premises where the sign is located.

**Sign, Campaign** means a temporary sign promoting the candidacy of a person running for a governmental office, or promoting an issue to be voted on at a governmental election.

**Sign, Canopy** means any message or identification which is affixed to a projection or extension of a building or structure, erected in a manner as to provide a shelter or cover over the approach to any entrance of a store, building or place of assembly.

**Sign, Construction** means a sign placed on a construction site identifying the project or the name of the architect, engineer, contractor, financier or other involved parties.

**Sign, Directory** means an exterior informational sign which identifies the names of businesses served by a common public entrance and located in a single building or complex of buildings on a single lot.

**Sign, Governmental** means a sign erected as required by law, ordinance, or other governmental regulation.

**Sign, Holiday** means a temporary sign incidental to and customarily associated with any national, local or religious holiday.

**Sign, Identification** means a sign giving the nature, logo, trademark or other identifying symbol, address, or any business, development or establishment on the premises where it is located.

**Sign, Informational** means any sign giving information to employees, visitors or delivery vehicles, but containing no advertising or identification. These signs include, but are not limited to, designation of restrooms, telephone location, restrictions on smoking, door openings, and private traffic control and parking signs.

**Sign, Institutional** means a sign which identifies the name and other characteristics of a public or semi-public institution on the site where the sign is located.

**Sign, Integral** means a sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type of construction and made an integral part of the structure.

**Sign, Marquee** means a sign or attached to a permanent overhanging shelter that projects from the face of the building and is supported entirely by the building.

**Sign, Monument** means any freestanding sign mounted directly to a base with no clearance between the established grade and the bottom of the sign.

**Sign, Non-Conforming.**

- (1) **Legal Non-Conforming Sign** means a sign which lawfully existed as of August 22, 1983, which does not conform with the regulations of this Chapter.
- (2) **Illegal Non-Conforming Sign** means a sign constructed or erected after August 22, 1983, which does not conform with the provisions of this Chapter, and signs which unlawfully existed prior to August 22, 1983, and do not conform with the provisions of this Chapter.

**Sign, Off Premises Advertising** means any sign erected for the purpose of advertising a business, product, event, person, or subject not relating to the premises on which the sign is located.

**Sign, Portable** means a sign so designed as to be movable from one (1) location to another and which is not permanently attached to the ground, sales display device, or structure.

**Sign, Projecting** means a sign, other than a wall sign, which is affixed to a building and which extends perpendicular from the building wall.

**Sign, Pylon or Pole** means any freestanding sign, not attached to a building, that is supported from the ground by a pole(s) or other structure so that the bottom edge of the sign face is five (5) feet or more above grade.

**Sign, Real Estate** means a business sign placed upon a property advertising that particular property for sale, for rent or for lease.

**Sign, Roof** means any sign which is erected, constructed or attached wholly or in part upon or over the roof of a building.

**Sign Structure** means the supports, uprights, bracing and framework for a sign including the sign area.

**Sign, Temporary** means any sign which is erected or displayed for a specific period of time.

**Sign, Wall or Fascia** means a sign which is affixed to the exterior wall of a building and which is parallel to the building wall. A wall sign shall not project more than twelve (12") inches from the surface to which it is attached, nor extend beyond the top of the parapet wall.

**Sign, Window** means a sign affixed permanently to a window in view of the general public. This does not include merchandise on display. The total window area of the main floor of a business may be considered as one (1) window sign area.

**Solar Collection Panel** means any solar collector, skylight, or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, cooling, water heating, or for power generation.

**Solar Energy** means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector panel. (Ord. 825; 7-3-2018)

**Solar Energy System** means a device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for heating or cooling, electricity generation, or water heating. A **freestanding solar system** is one that is mounted directly to the ground using a rack or pole rather than being mounted on a building. (Ord. 825; 7-3-2018)

**Solar Farm** means a commercial facility that converts sunlight into electricity, whether by photovoltaic (PV), concentrating solar thermal devices (CST), or other conversion technology, for the principal purpose of wholesale sales of generated energy. (Ord. 825; 7-3-2018)

**Special Exception Use** means any use specifically allowed within a given district subject to a review of an application for such use by the City to assure that all specified conditions are met.

**Story** means that portion of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor or if there is no floor above, then the ceiling next above. A story thus defined shall not be counted as a story when more than fifty (50) percent, by cubic content, is below the height level of adjoining ground.

**Half-Story** means that portion of a building under a gable, hip or gambrel roof, the wall plates of which, at least two (2) opposite exterior walls, are not more than two (2') feet above the floor of such story, and basements where less than one-half (½) of the floor to ceiling height is below the average of the highest and lowest point of that portion of the lot covered by the building.

**Street** means a public thoroughfare thirty (30') feet or more in right-of-way width.

**Street Frontage** means the proximity of a parcel of land to one (1) street frontage, and a corner lot has two (2) frontages.

**Structure** means anything which is built, constructed or erected; an edifice or building of any kind or any piece of work artificially built up and/or composed of parts jointed together in some definite manner whether temporary or permanent in character.

**Structural Alterations** means any change in the supporting members of a building, such as bearing walls, column, beams or girders.

**Swimming Pool** means any body of water in an artificial or semi-artificial receptacle or other container of a permanent or semi-permanent nature located within the City whether constructed above or below ground level, capable of being used or intended to be used for private or semi-private swimming or bathing by adults and children, and which has a depth of two (2') feet or more at any point.

**Temporary Use or Building** means a use or building permitted to exist for a limited period of time under the conditions and procedures as provided for in this Code.

**Town House** means structures housing three (3) to eight (8) contiguous dwelling units of not more than two (2) stories each and having separate and individual front and rear entrances, such structures to be of the town or row house type as contrasted to multiple dwelling apartment structures.

**Transient Merchant** means the retail sale of goods, wares, merchandise or services within the City not located in a permanent structure or not conducting business on behalf of and solely for the benefit of a local non-profit organization.

**Transitory Food Unit** means a food service establishment duly licensed by the Department of Public Health that operates from a motor vehicle or is regularly transported by a motor vehicle and which does not regularly return to a fixed food service establishment licensed by the Department of Public Health for servicing and maintenance.

**Use** means the purpose or activity for which land or a building thereon is designated, arranged, or intended, or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this Chapter.

**Usable Open Space** means a required ground area or terrace area on a lot which is graded, developed, and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and usable by all persons occupying a dwelling unit or rooming unit on the lot. Open space areas shall be grassed and landscaped or covered only for a recreational purpose. Roofs, driveways, and parking areas shall not constitute usable open space.

**Variance** means a waiver by the Zoning Board of Appeals of the literal provisions of this Chapter in instances where its strict enforcement would cause practical difficulty because of physical circumstances unique to the individual property under consideration.

**Vegetation** means the sum total of plant life in an area; or a plant community with distinguishable characteristics.

**Vehicle** means any device in, upon or by which any person or person's possessions or other goods (whether owned by a person or business) are or may be transported. For the purposes of this definition, vehicles include, but are not limited to, automobiles, trucks, buses, motor homes, motorized campers, motorcycles, mopeds, motor scooters, tractors, snowmobiles, dune buggies, and other off-road vehicles. (Ord 834; 12-3-2019)

**Vehicle Impound Yard** means an enclosed area where impounded and wrecked vehicles are held in custody.

**Wind Energy Conversion System** means a system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid.

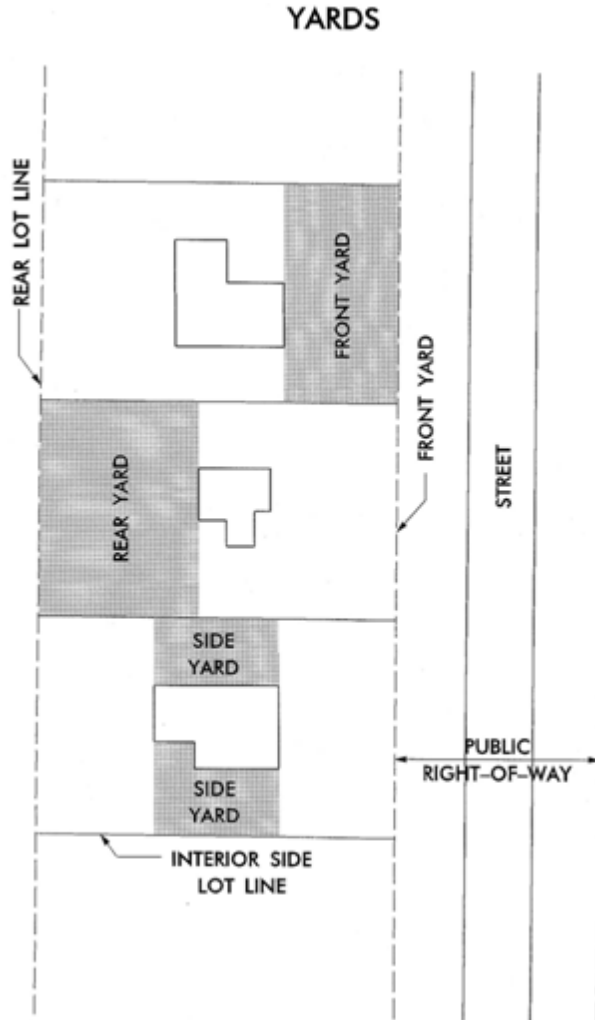
**Wind Energy Conversion System, On-Site** means a wind energy conversion system which has a rated capacity of not more than 100 kilowatts (kW) and which is primarily intended to reduce on site consumption of utility power.

**Yard** means an open space on the lot which is unoccupied and unobstructed from the ground upward except as may be specifically provided in this Chapter. A yard extends along a lot line at right angles to such lot line to a depth and width specified in the yard regulations for the zoning district in which the lot is located.

**Yard, Front** means a yard extending across the full width of the lot and lying between the front lot line and the nearest line of the main building, excluding steps and unenclosed porches. In the case of corner lots, the front yard shall be deemed to exist along each street frontage (See Yard Figure). **Yard, Rear** means a yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the main building, excluding steps and unenclosed porches.

**Yard Depth, Rear** means the horizontal distance between the rear line of the main building and the center line of an alley, where an alley exists; otherwise, a rear lot line.

**Yard, Side** means a yard between the side lot line and the nearest line of the building and extending from the front yard to the rear yard (See Yards Figure).



**Zoning Administrator** means the person responsible for administration and enforcement of this Chapter. The Zoning Administrator shall be the City Manager or his/her designee.

### 30-9 NON-CONFORMING BUILDINGS, STRUCTURES AND USES.

- (A) It is the purpose of this Section to provide for the regulation of non-conforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which non-conforming buildings, structures and uses may be operated and maintained. This Chapter establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that non-conforming buildings, structures and uses not be permitted to continue without restriction. It is also the intent of this Section that all non-conforming uses shall be eventually brought into conformity.
- (B) Any structure or use lawfully existing prior on the effective date of adoption or amendment of this Zoning Ordinance, may be continued at the size and in the existing manner of operation, except as otherwise provided in this Section.
- (C) Nothing in this Chapter shall prevent the placing of a structure in safe condition when the structure is declared unsafe by the Building Official, providing the necessary repairs shall not constitute more than fifty (50%) percent of a fair market value of the structure, as determined by the City Assessor.
- (D) A non-conforming building, structure or use shall not be moved to another lot or to any other part of the parcel of land upon which it was constructed or was conducted prior to the effective date of adoption or amendment of this Zoning Ordinance, unless the move shall bring the non-conformance into compliance with the requirements of this Chapter.
- (E) When any lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed or returned to a non-conforming use.

- (F) A lawful non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be altered or changed to increase the non-conformity.
- (G) If at any time a non-conforming building, structure or use shall be destroyed to the extent of more than fifty (50%) percent of its fair market value, as determined by the City Assessor, then without further action by the City Commission, the building and the land on which the building was located or maintained shall, from and after the date of the destruction, be subject to all provisions of this Chapter for the district in which the land is located. Any building which is damaged to an extent of less than fifty (50%) percent of its value may be restored to its former extent.
- (H) Whenever a lawful non-conforming use of a structure or land is discontinued for a period of six (6) months or more, any future use of the structure or land shall be made to conform with the provisions of this Chapter.
- (I) Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the non-conforming use.
- (J) Alterations may be made to a building of lawful non-conforming residential units when they will improve the livability thereof provided they will not increase the number of dwelling units or the non-conformity.
- (K) Lawful non-conforming, non-income producing, residential units may be extended to improve livability, provided that the non-conformity of the structure will not be increased.

### 30-10 GENERAL BUILDING AND PERFORMANCE REQUIREMENTS.

- (A) Dwelling Unit Restrictions.
  - (1) No basement, garage, tent or accessory building shall at any time be used as an independent residence or dwelling unit, temporarily or permanently, except as provided by Chapter 12 of this Code.
  - (2) Basements may be used as living quarters or rooms as a portion of residential dwelling subject to the provisions of Chapter 12 of this Code.
  - (3) Earth-sheltered housing shall not be considered as a basement or cellar.
  - (4) Tents, play houses or similar structures may be used for play or recreational purposes only.

### 30-11 PLATTED AND UNPLATTED LAND.

- (A) Any person desiring to improve land shall submit to the Building Official a survey of the land and information on the location and dimensions of existing and proposed buildings, location of easements, encroachments, and any other information which may be necessary to insure conformance with provisions of this Chapter.
- (B) All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the City in conformity with existing streets and according to the system and standards employed by the City.
- (C) A lot of record existing upon August 22, 1983, in a residential district which does not meet the requirements of this Chapter as to the area or width may be utilized for single family detached dwelling purposes provided that:
  - (1) The lot is in separate ownership and not of continuous frontage with other lots in the same ownership.
  - (2) The measurements of the lot area and width are within seventy (70%) percent of the requirements of this Chapter.
  - (3) Setbacks and yard requirements are in conformance with this Chapter.
- (D) Except as provided for in this Chapter, not more than one (1) principal building shall be located on a lot.
- (E) On a through lot (a lot fronting on two (2) parallel streets) both street lines shall be front lot lines for applying the yard and parking requirements of this Chapter.

### 30-12A ACCESSORY BUILDINGS AND USES.

- (A) An accessory building shall be considered an integral part of the building if the accessory building and the principal building have a common wall. Accessory buildings attached in the aforementioned manner shall comply with all regulations pertaining to principal structures.  
 Porches, covered passageways and decks are not considered adequate attachment of an accessory building to a principal building.
- (B) Accessory buildings shall not exceed eighteen (18') feet in height.

- (C) No accessory building shall be located in any front yard or required side yard.
- (D) No permit shall be issued for the construction of more than one (1) private garage structure for each detached single family dwelling. Every detached single family dwelling unit erected after the effective date of adoption or amendment of this Zoning Ordinance, shall be located on the lot so that at least a two (2) car garage, either attached or detached, can be located on the lot.
- (E) No accessory building shall be located closer than five (5') feet from any lot line or any other building or structure on the same lot.
- (F) No accessory uses or equipment which generates noise, including air conditioning cooling structures or condensers, may be located within five (5') feet of any lot line.
- (G) An accessory building shall not occupy more than twenty-five (25) percent of a required rear yard nor more than forty (40) percent of any nonrequired rear yard, provided that in no instance shall the combined floor area of detached accessory buildings exceed the combined floor area of the main building. (Ord. 820; 2-20-2018)
- (H) Solar collector panels, each not exceeding four (4) feet by eight (8) feet in size, may be permitted in any zoning district, subject to the following:
  - (1) All installations shall be located only in the rear yard and must comply with all accessory use, height, bulk, and setback requirements of the district; except that flush-mounted roof or wall solar collectors are permitted.
  - (2) All installation shall be located to prevent the obstruction of sunlight on adjoining property.
  - (3) All installations shall employ (to the extent possible) materials and colors that blend with the surroundings.
  - (4) Signs, lettering, numbers, logos, symbols, or other illustrative markings attached to or painted on a solar collector are prohibited.
  - (5) Ground installation shall provide landscaping and fencing insofar as possible to screen the installation from adjacent properties.
  - (6) All solar collectors placed on the roof, shall be totally enclosed to prevent wind damage to the solar collector and to reduce heat loss.
  - (7) No solar energy system shall be made operational until the City Building Official shall certify, in writing, that both construction plans and final construction of said solar collector meet the requirements of this Ordinance and the Building Code and afford safety to the public at time of high winds. Solar collectors shall be designed and constructed to resist wind and seismic forces. All bracing systems shall be designed and constructed to transfer lateral forces to the foundation. For solar collectors mounted on roofs, the dead and lateral loads shall be transmitted through the structural frame of the building to the ground in such a manner as not to over stress any of the elements thereof. Solar collector manufacturers' standards for ground and roof installation shall be complied with regarding allowable wind loads, stresses, supports, and fastenings. Where deemed necessary by the City Building Official, a permit for installation shall be submitted with a certification by a Registered Professional Engineer that the installation complies with these standards.
- (I) Outdoor Solid Fuel-fired Furnaces are prohibited in all Zoning Districts of the City.

### 30-13 SWIMMING POOLS.

- (A) Building Permit Required.
  - (1) A building permit shall be applied for and issued before construction of any swimming pool shall commence.
  - (2) The application for the permit shall be accompanied by complete and detailed plans and specifications of the swimming pool and all equipment and apparatus to be used in connection with the pool, showing its location on the lot and the distance from the property lines of the lot.
  - (3) Swimming pools shall not be located in required front yards and shall be constructed in accordance with the Building Code adopted by the City.
- (B) Water Supply. There shall be no cross-connection of the City water supply with any other source of water supply for a swimming pool. The line from the City water supply to the pool shall be protected against the back flow of polluted water by means of an air gap and shall discharge at least six (6") inches above the maximum high-water level of the makeup tank or the swimming pool.
- (C) Supervision. No person shall maintain an outdoor swimming pool in his or her premises without providing adequate supervision and taking all other reasonable precautions at all times the swimming pool is in use, so as to protect the users from injury, accident and drowning.
- (D) Shielding Lights. Lights used to illuminate any swimming pool shall be so arranged and shaded as to reflect

light away from adjoining premises.

- (E) Unnecessary Noise. It shall be unlawful for any person to make, continue or cause to be made or continued at any swimming pool any loud, unnecessary or unusual noise or any noise which annoys, disturbs, injures or endangers the comfort, repose, health or safety of others. In the operation of a swimming pool, the use or permitting the use or operation of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or the reproducing of sound in a manner so as to disturb the peace, quiet, and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for the convenient hearing of the person or persons who are in the swimming pool premises, shall be unlawful.
- (F) Toilet Facilities. Toilet facilities must be provided on the premises. The State Plumbing Code must be followed and the work must have the approval of the State Plumbing Inspector.
- (G) Polluted Water. No body of water, whether it be a natural or an artificial body of water in the City which contains sewage, waste or other contaminating or polluting ingredients rendering the water hazardous to health shall be used for swimming or bathing purposes by any person or persons.
- (H) Right of Inspection. Authorized City and Health Department inspectors shall have the right at any reasonable hour to inspect any swimming pool to determine if it is in compliance with the provisions of this Chapter.

### 30-14 SATELLITE DISH ANTENNAS.

- (A) Permit Required. No person shall construct a satellite dish antenna without a permit issued in accordance with this Section.
- (B) Application for Permit. Any person who desires to construct a satellite dish antenna on said property must first obtain a permit to do so from the Building Official. The Building Official shall issue such permit, provided the applicant submits a written application upon forms provided and approved by the Building Official, along with a plot plan of the lot, premises or land parcel attached, showing the location and dimensions of the proposed satellite dish antenna; a description of the kind of satellite dish antenna proposed, and the location and dimensions of all buildings or structures. Each application shall specify among other things the name and address of the owner of the property, the applicant, and the person to be permitted to construct the proposed satellite dish antenna. The applicant shall present documentation of the possession of any license or permit required by a Federal, State or local agency pertaining to the ownership, construction or operation of a satellite dish antenna. The applicant shall submit with each application a sum consistent with the building permit fee schedule.
- (C) Location of Satellite Dish Antenna.
  - (1) Ground-Mounted.
    - (a) No satellite dish antenna shall be constructed in any front yard, but shall be constructed to the side or rear of the residence or main structure.
    - (b) No satellite dish antenna, including its concrete base slab or other substructure, shall be constructed less than five (5') feet from any property line or easement.
    - (c) A satellite dish antenna shall not exceed a grade height of fifteen (15') feet free-standing or, in the case of a pole-mounted dish adjacent and affixed to the primary or accessory structure wall, eight (8') feet above the peak of the roof.
    - (d) All structural supports shall be of non-rusting metal.
    - (e) Wiring between a satellite dish antenna and a receiver shall be placed at least six (6") inches beneath the surface of the ground within rigid conduit or at least twenty-four (24") inches beneath the surface for direct burial.
    - (f) Such satellite dish antenna shall be designed to withstand a wind force of one hundred (100) miles per hour without the use of supporting guy wires.
    - (g) Any driving motor shall be limited to one hundred ten (110) volt maximum power design and be encased in protective guards.
    - (h) A satellite dish antenna must be bonded to a grounding rod.
  - (2) Roof-Mounted.
    - (a) A satellite dish antenna shall not be erected and maintained on the roof of any building without approval of the Building Official. An application shall be accompanied by detailed drawings of the structure and methods of anchorage.
    - (b) A satellite dish antenna shall be mounted directly upon the roof of a primary or accessory structure,

as defined in the Building Code, and shall not be mounted upon appurtenances such as chimneys, trees, poles or spires.

- (c) A satellite dish antenna shall not exceed a height of more than eight (8') feet above the roof upon which it is mounted.
- (d) A satellite dish shall be designed to withstand a wind force of one hundred (100) miles per hour without the use of supporting guy wires.
- (e) Any driving motor shall be limited to one hundred ten (110) volt maximum power design and be encased in protective guards.
- (f) A satellite dish antenna must be bonded to a grounding rod.

### 30-15 FENCES - GENERAL REQUIREMENTS.

- (A) Permit Required. No fence subject to the provisions of this Chapter shall be constructed or erected without first making an application for and securing a fence permit.
- (B) Locations. All fences shall be located entirely upon the property of the person constructing, or causing the construction of a fence, unless the owner of the adjoining property agrees, in writing, that the fence may be adjoined on the division line of the respective properties. The Zoning Administrator may require any applicant for a fence permit to establish the boundary lines of his or her property by a survey of the property made by a registered land surveyor; and in the case of a corner lot, both yards abutting a street shall be considered a front yard.
- (C) Construction and Maintenance. Every fence shall be constructed in workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair, or to constitute a nuisance. Any fence which is dangerous to the public safety, health or welfare is a public nuisance, and the Zoning Administrator shall commence proper proceedings for the abatement of the nuisance. Link fences in residential zones shall be constructed in a manner so that no barbed ends are at the top. Electric and barbed wire fences are prohibited in all zoning districts, except as specifically authorized under this Chapter.
- (D) Enclosure of Swimming Pool. Fencing for swimming pools shall be subject to the Building Code adopted by the City.
- (E) Residential District Fences.
  - (1) Boundary Line Fences. In all parts of the City zoned residential, no boundary line fence shall be erected or maintained more than three (3') feet in height except that:
    - (a) Fences on all corner lots erected within thirty (30') feet of the intersecting property line shall be subject to Section 30-16(D) regarding traffic visibility.
    - (b) Subject to other restrictions contained within this Section, fences may be constructed to a height of six (6') feet on or along the side yard property line from the rear lot line to the front building line of the principal structure.
    - (c) Fences along any rear property line which is also the rear property line of an abutting lot or alley may be constructed to a height of six (6') feet.
    - (d) Fences along a rear property line which constitutes the side lot lines of an abutting lot shall not exceed six (6') feet in height for a distance as calculated in (E)(1)(b) above and shall not exceed three (3') feet in height when abutting a front yard line.
    - (e) In those instances where a boundary line fence exists as an enclosure which restricts access from the property, a gate, identifiable collapsible section, or other such means of recognizable ingress shall be provided for emergency vehicles. Such ingress points shall be unobstructed and a minimum of ten (10') feet in width. The location of such ingress points shall be positioned at any point paralleling the front lot line between the side lot property line and the principal structure.
  - (2) Interior Yard Fences.
    - (a) Any fence erected within any portion of the required front yard shall not exceed four (4') feet in height. All other types of fences within any portion of the required front yard shall not exceed three (3') feet in height. All fences shall conform to Section 30-16(D) regarding traffic visibility.
    - (b) Within a side or rear yard, a fence up to six (6') feet in height may be erected as a total enclosure.
    - (c) Chain link fences (without slat screens) used for the enclosure of tennis courts or other such recreational purposes shall not exceed ten (10') feet in height and shall be located in a rear yard only.
  - (3) Business and Industry Fences.

- (a) Boundary line fences in all business and industry districts shall not exceed ten (10') feet in height. Barbed wire may be used above seven (7') feet except for the I-3 Industrial Park District (see 30-32(G)(14).
  - (b) Boundary line or interior yard fences erected within the required front yard shall conform to Section 30-16(D), pertaining to traffic visibility, and shall be of a chain link construction permitting maximum visibility.
- (4) Parks and Recreation Area Fences.
- (a) Boundary line fences in all parks and recreation areas may not exceed six (6') feet in height. Barbed wire may not be used. Fence construction shall be chain link type permitting maximum visibility.

### 30-16 REQUIRED SCREENING AND LANDSCAPING.

- (A) Intent. Landscaping, greenstrips, and screening are necessary for the continued protection and enhancement of all land uses. Landscaping and greenstrips are capable of enhancing the visual image of the City, preserving natural features, improving property values, and alleviating the impact of noise, traffic, and visual distraction associated with certain uses. Screening is important to protect less-intensive uses from the noise, light, traffic, litter and other impacts of more intensive, non-residential uses. Accordingly, these provisions are intended to set minimum standards for the design and use of landscaping, greenstrips, and screening. These provisions are also intended to encourage creativity on the part of the project owner in the designing and installation of landscape materials.
- (B) Scope of Application. The requirements set forth in this Section shall apply to all projects, buildings, structures, and uses not exempted from site plan review, as outlined in Section 30-36(A), which are developed or expanded following the effective date of this Ordinance. No site plan shall be approved unless said site plan shows landscaping consistent with the provisions of this Section. Furthermore, where landscaping is required, a building permit shall not be issued until the required landscape plan is submitted and approved, and a certificate of occupancy shall not be issued unless provisions set forth in this Section have been met or a performance bond has been posted in accordance with the provisions set forth in this Section.
- (C) Minimum requirements. The requirements of this Section are minimum requirements, and under no circumstances shall they preclude the developer and the City from agreeing to more extensive landscaping and/or screening.
- (D) Design creativity. Creativity in landscape design is encouraged. Landscaping materials should include a variety of plant species to prevent the spread of plant disease. Required trees and shrubs may be planted at uniform intervals, at random, or in groupings, depending on the designer's visual effect. Clustering of trees and shrubs, rather than "formal" designs involving placement of trees and shrubs at uniform intervals is encouraged.
- (E) General site requirements. All developed portions of the site shall conform to the following general landscaping standards, except where specific landscape elements, such as a greenstrips, berms, or screening are required:
  - (1) All permanently undeveloped portions of the site shall be planted with grass, ground cover, shrubbery, other suitable live plant material, or left in a natural state. This planted area shall extend to any abutting street pavement edge or to the shoulder of the road. Existing plant material on the property may be used. Grass areas in the front yard of all non-residential uses shall be planted with sod or be planted by hydro seeding or seeded with some similar method of quickly producing healthy and permanent grass growth.
- (F) Screening of Business and Industry uses abutting residential zones. Where any business or industry use abuts property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front (as determined by the Zoning Administrator). All the screening and landscaping specifically required by this Chapter shall be subject to Section 30-16(T), pertaining to traffic visibility, and shall consist of either a fence or a greenstrip as provided for below.
  - (1) Greenstrip. A greenstrip shall consist of evergreen trees and/or deciduous trees and plants. It shall be a minimum of 10 feet in width and shall contain appropriately spaced plantings which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above the ground level within five years of planting. Earth mounding or berms may be used but shall not be used to achieve more than three (3') feet of the required screen. The planting strip plan and type of plantings shall be required and approved as part of Site Plan Review.
  - (2) Screening Fence. A required screening fence shall be constructed of masonry or vinyl. The fence shall provide a solid screening effect six (6') feet in height. The design and materials used in constructing a required screening fence shall be subject to the approval of the Zoning Administrator.

- (G) Specific requirements for B-1 and B-2 Districts. In addition to the general landscaping requirements set forth in this Section, all lots or parcels of land located in B-1 and B-2 Districts shall comply with the following landscaping requirements:
  - (1) Front yard landscaping. All front yards shall be landscaped in accordance with the following standards:
    - (a) When the use is across from a residential use or residential zoning district and the use includes front yard parking, a visual barrier a minimum of 3-feet high consisting of a decorative wall or landscape material, or combination thereof, is required. This requirement does not apply to outdoor display areas adjacent to the road such as automobile dealerships.
    - (b) There shall be a minimum of one shade or ornamental tree for every forty (40) linear feet or portion thereof of road frontage, plus one shrub for every ten (10) linear feet or portion thereof of frontage. Dwarf species of shrubs may be utilized at the rate of 1.5 times the base shrub requirement. For the purpose of computing the length of road frontage, openings for driveways and sidewalks will not be counted. Landscaping may be planted at uniform intervals, at random, or in groupings.
- (H) Specific requirements for R-4 and R-5 Zoning District. In addition to the general landscaping requirements set forth in this Section, all lots or parcels of land located in R-4 and R-5 Residential Districts shall comply with the following landscaping requirements:
  - (1) General site landscaping. A minimum of one deciduous shade or evergreen tree, one ornamental tree, or two shrubs shall be planted for every four dwelling units. Unless otherwise specified, required landscaping elsewhere in the multiple-family development shall not be counted in meeting these requirements for trees.
  - (2) Protective screening requirements. Protective screening in the form of a ten (10) foot landscape buffer shall be required wherever development abuts directly upon land zoned or used for single family residential purposes. Said buffer shall contain appropriately spaced plantings which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within five years of planting.
  - (3) Front yard landscaping. All front yards shall be landscaped in accordance with the following standards:
    - (a) A minimum of one shade or ornamental tree for every forty (40) linear feet of frontage, plus one shrub for every ten (10) linear feet or portion thereof of frontage. For the purpose of computing the length of road frontage, openings for driveways and sidewalks will not be counted. Landscaping may be planted at uniform intervals, at random, or in groupings.
- (I) Specific requirements for non-residential uses in residential districts. In addition to the general landscaping requirements set forth in this Section, all non-residential uses developed in residential districts shall comply with the following landscaping requirements:
  - (1) Protective screening requirements. Protective screening in the form of a ten (10) foot landscape buffer shall be required wherever development abuts directly upon land used for single family residential purposes. Said buffer shall contain appropriately spaced plantings which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within five years of planting.
  - (2) Front yard landscaping. All front yards shall be landscaped in accordance with the following standards:
    - (a) A minimum of one shade or ornamental tree for every forty (40) linear feet of frontage, plus one shrub for every ten (10) linear feet or portion thereof of frontage. For the purpose of computing the length of road frontage, openings for driveways and sidewalks will not be counted. Landscaping may be planted at uniform intervals, at random, or in groupings.
- (J) Residential Subdivisions and Condominium Developments. New residential subdivisions and condominium developments shall provide a minimum of one (1) shade or ornamental street tree for every lot or parcel along the road right-of-way.
- (K) Parking Lot Landscaping. In addition to required screening, all off-street parking areas shall provide landscaping as follows:
  - (1) Landscaping ratio. Off-street parking areas shall provide interior landscaping in accordance with the following table.  
In the B-1, B-2, I-1, I-2, I-3, I-4 and A Zoning Districts:

|                        |   |
|------------------------|---|
| 25 – 49 parking spaces | 250 square feet of interior parking landscape islands |
| 50 – 99 parking spaces | 500 square feet of interior parking landscape islands |

|                            |   |
|----------------------------|---|
| 100 or more parking spaces | 1,000 square feet of interior parking landscape islands plus an additional 20 square feet for each parking space over 100 |
|----------------------------|---|

In R-1 through R-MH Zoning Districts:

|                            |   |
|----------------------------|---|
| 25 – 49 parking spaces     | 200 square feet of interior parking landscape islands   |
| 50 – 99 parking spaces     | 400 square feet of interior parking landscape islands   |
| 100 or more parking spaces | 800 square feet of interior parking landscape islands plus an additional 16 square feet for each parking space over 100 |

- (2) The landscaping islands shall be spaced proportionately throughout the parking area to the extent reasonably possible.
- (3) In the case of an expansion of an existing parking lot to include additional parking equal to or greater than 25 parking spaces, the interior landscaping requirements of this Section shall apply for those additional parking spaces, but the Planning Commission may modify the parking lot interior landscaping requirements and consider the existing landscaping on site to meet the parking lot interior landscaping requirements.
- (4) Whenever possible, parking lot landscaping shall be designed to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area.
- (5) Plantings within parking lots shall be subject to Section 30-16(T), pertaining to traffic visibility.
- (6) The landscape plan shall indicate the types, sizes, and quantities of plant material proposed for such area.
- (L) Screening of ground level utility and mechanical equipment and refuse containers. Ground level utility and mechanical equipment and refuse containers for other than one-family or two-family residential uses shall be screened from view from any adjacent property, and from any public or private road. The screening shall be high enough to block the view of the refuse container or ground level equipment, such as air compressors, pool pumps, transformers, air conditioning units, sprinkler pumps, utility substations and similar equipment, and shall consist of an approved wall or fence or landscape material. Insofar as practical, said screening shall exceed the vertical height of the equipment being screened by at least six inches within two years of planting.
- (M) Landscaping of rights-of-way. Public rights-of-way located adjacent to required landscaped areas and greenstrips shall be planted with grass or other live ground cover, and shall be maintained by the owner or occupant of the adjacent property as if the rights-of-way were part of the required landscaped areas or greenstrips. No plantings except grass or ground cover shall be permitted closer than three feet from the edge of the road pavement.
- (N) Potential damage to utilities. In no case shall landscaping material be planted in a way which will interfere with or cause damage to underground or overhead utility lines, public or private roads, or similar public facilities. Species of trees whose roots are known to cause damage to public roadways, sewers, or other utilities shall not be planted closer than fifteen (15) feet from any such roadways, sewers, or utilities.
- (O) Landscaping of divider medians. Where traffic on driveways, maneuvering lanes, private roads, or similar vehicle access ways is separated by a divider median, the median shall be curbed and have a minimum width of six (6) feet as measured from the back of curb. A minimum of one deciduous tree shall be planted for each forty (40) linear feet or portion thereof of median. Trees shall be planted at uniform intervals, but in no instance shall the center-to-center distance between the trees exceed sixty (60) feet.
- (P) Storm water detention and retention ponds. Detention and retention ponds shall be designed as an integral part of the overall site plan and shall be considered a natural landscape feature having an irregular or curvilinear shape. The following standards shall be considered minimum requirements for the landscaping of detention and retention ponds:
  - (1) Groundcover - The side slopes and bottom of the pond shall be sodded or seeded. If seeding is proposed, a seed mat or seed blanket shall be installed to prevent erosion and seed washing.
  - (2) General landscaping - All proposed ponds shall be landscaped in accordance with the following standards:
    - (a) One deciduous shade or evergreen tree shall be planted for every 100 linear feet of pond perimeter as measured along the top of bank elevation. The required trees and shrubs may be planted in a

random pattern or in groupings and placement of required landscaping is not limited to the top of the pond bank.

- (b) Detention and retention ponds shall provide lawn areas, shrubs and trees to accomplish a suitable appearance compatible with development on the property and on nearby properties.
- (3) Side slopes – Side slopes shall not exceed one (1) foot vertical for every five (5) feet horizontal so as to prevent the need for chain link fencing.
- (Q) Plant Standards. All plants must at least equal the following minimum requirements; however, plant type and mode are dependent upon time of planting, season, availability, and site conditions (soils, climate, ground water, manmade irrigation, grading, etc.).

Bare Root/Potted/Balled & Burlapped (B&B)

|  |  |
|--|--|
| Shade Trees  | Single stem, 1 ½ inch caliper at 6 Inches above ground           |
| Ornamental Trees   | Single stem 6-7 Feet or 1¼ inch caliper at 6 inches above ground |
| Evergreen Trees  | Single stem 3-4 Feet   |
| Tall Shrubs & Hedge Material<br>(Evergreen or Deciduous) | 3-4 Feet   |
| Low Shrubs (Deciduous)                                   | 18-24 Inches   |
| Low Shrubs (Spreading)                                   | 18-24 Inches, Potted or B&B                                      |
| Low Shrubs (Evergreens)                                  | 18-24 Inches, Potted or B&B                                      |
| Half Trees   |  |

- (1) Spacing.
  - (a) Plant material centers shall not be located closer than three (3') feet from the fence line or property line and shall not be planted to conflict with public plantings.
  - (b) Where plant materials are planted in two (2) or more rows, plantings shall be staggered in rows unless otherwise approved by the City Manager or his designee.
  - (c) Where massing of plants or screening is intended, large deciduous shrubs shall not be planted more than four (4') feet on center, and/or evergreen shrubs shall not be planted more than three (3') feet on center; however, evergreen trees may, with the approval of the City Manager or his designee, be planted at a greater distance on centers as a screen.
  - (d) Deciduous shade trees shall not be planted closer than twenty-five (25) feet apart. Deciduous ornamental trees shall not be planted closer than fifteen (15) feet apart.
- (2) The installation of drought resistant and local plant species is highly encouraged to minimize the need for supplemental irrigation.
- (3) Installation and maintenance. The following standards shall be observed where installation and maintenance of landscape materials are required:
  - (a) Off-season planting requirements. If development is completed during the off-season when plants cannot be installed, installation of required landscaping shall be made in the next planting season, which is defined as April, May and June or September and October.
  - (b) Maintenance. Landscaping required by this Section shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. All unhealthy and dead plant material shall be replaced immediately unless the season is not appropriate for planting, in which case such plant material shall be replaced at the beginning of the next planting season. All constructed or manufactured landscape elements, such as but not limited to benches, retaining walls, edging, and so forth, shall be maintained in good condition and neat appearance. Rotted, deteriorated, or damaged landscape elements shall be repaired or replaced.
- (R) Types of New Trees. Examples of suitable trees include, but are not limited to, the following: Quercus (varieties) Oak, Acer platanoides (and varieties), Norway Maple (and Schwedler, Emerald Queen, Etc.), Acer saccharum Sugar Maple, Celtis occidentalis Hackberry, Betula (varieties) Birch (preferably not Betula papyrifera), Gleditsia triacanthos Honeylocust (Imperial, Majestic, Skyline, Sunburst & Thornless), Tilia cordata (and varieties) Little Leaf Linden (& Redmond, Greenspire, Etc.), Tilia Americana Basswood (American Linden), Ginkgo biloba (male tree only) Ginko, Gymnocladus dioicous Kentucky Coffee tree. Species of trees not listed above shall be approved to use by the City Manager or his designee.

- (S) Trees not Permitted.

- (1) Box Elder
- (2) Soft Maples (Red-Silver)
- (3) Elms (except Camperdown Elm or any type not susceptible to Dutch Elm disease)
- (4) Poplars
- (5) Willows
- (6) Horse Chestnut (Nut Bearing)
- (7) Tree of Heaven
- (8) Catalpa
- (9) Ash

(T) Existing Trees. With respect to existing trees in new developments, all trees on the site are to be saved which do not have to be removed for street, buildings, utilities, drainage or active recreational purposes.

(U) Traffic Visibility. No landscaping shall be erected, established, or maintained on any parcel, in any parking lot, or any public right-of-way, which will obstruct the view of drivers. On corner lots in all districts, traffic visibility shall be maintained within a triangular area defined as follows: Beginning at the intersection of the projected property lines of two (2) intersecting streets or alleys, thence twenty (20') feet along one (1) property line, thence diagonally to a point twenty (20') feet from the point of beginning, thence to the point of beginning. Within this triangular area, no structure, fence, or planting shall be permitted within an area commencing thirty (30") inches above and extending to ten (10') feet above grade level of either roadbed.

When a driveway intersects a street, traffic visibility shall be maintained within a triangular area defined as follows: The area formed at the corner intersection of a public or private right-of-way and a driveway, two (2) sides of the triangle being ten (10) feet in length measured along the right-of-way and driveway line and the third side being a line connecting these two sides. Within this triangular area, no structure, fence, or planting shall be permitted within an area commencing thirty (30") inches above and extending to ten (10') feet above grade level.

(V) Modifications to landscape requirements. In consideration of the overall design and impact of a specific landscape plan, and in consideration of the amount of existing plant material to be retained on the site, the Planning Commission may modify the specific requirements outlined herein, provided that any such adjustment is in keeping with the intent of this Section and this Zoning Ordinance in general. In determining whether a modification is appropriate, the Planning Commission may base its decision on any one or more of the following circumstances which exist in connection with the site:

- (1) Topographic features or other unique features of the site create conditions such that strict application of the landscape regulations would result in a less effective landscape design than an alternative landscape design.
- (2) Parking, vehicular circulation, or land use are such that required landscaping would not enhance the site or result in the desired aesthetic effect.
- (3) The public benefit intended by the strict application of the landscape regulations would be less effective than an alternative landscape design.
- (4) Landscaping would restrict proper storm water drainage.

(W) Performance guarantee. The Planning Commission may require a bond or other performance guarantee to ensure the installation of the landscaping required by this Section. The bond or other performance guarantee shall be in an amount equal to ten percent of the total cost of materials. The City may elect to hold a one hundred (100) percent escrow account of the amount to be spent on materials.

**30-17 OFF-STREET PARKING REQUIREMENTS.** See Chart No. 1 & 2

(A) Purpose. The purpose of off-street parking requirements is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public by establishing minimum requirements for off-street parking of motor vehicles in accordance with the utilization of various parcels of land or structures.

(B) Application of Off-Street Parking Regulations. The regulations and requirements of this Section shall apply to all off-street parking in all of the zoning districts of the City.

(C) Parking Plan Drawings. Applications for a building permit or an occupancy permit may also require a parking plan, drawn to scale and dimensions indicating the location of off-street parking and loading spaces. Following §30-17(D)(4), such plan drawings shall be required when there is a change in use or intensity of use, as determined by the city's Zoning Administrator.

(D) General Provisions.

- (1) Exemptions from Parking Requirements.

- (a) Community Parking. The provisions of this Section may be met by participation in a community parking program designed to serve a larger area provided plans for the community parking have been approved by the Zoning Administrator.
- (b) Historic District. All business uses located within the Downtown National Register Historic District shall be exempt from providing the minimum number of required off-street parking spaces required. All design standards will apply to those parking spaces which are provided. The Historic District consists of all property between North Main Street and Railroad Drive beginning at West Michigan Avenue on the south and ending at parcel 199-025-00 on the north. Also, all property between North Main Street and Water- Joshua Drive beginning at East Michigan Avenue on the south and ending at Portage Street on the north. Also, parcels 115-001-00, 115-002-00, 115-003-00, Burrows Moore Addition.
- (2) Reduction of Existing Off-Street Parking Space or Lot Area. Off-street parking spaces or areas existing prior to the effective date of adoption or amendment of this Zoning Ordinance shall not be reduced in number or size unless the number or size exceeds the requirements of this Section for a new use.
- (3) Non-Conforming Structures Parking. A non-conforming structure damaged or destroyed by fire may be reestablished if elsewhere permitted in this Chapter except that in doing so, any off-street parking or loading space which existed before shall be retained.
- (4) Change of Use or Intensity. Whenever a use of a building, structure, or lot is changed, adequate off-street parking shall be provided as required by this Section for the new use, regardless of any parking variance that may have been in effect prior to the change of use. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity or through other means requiring additional off-street parking, sufficient parking shall be provided for such increase in intensity of use.
- (5) Residential Parking at Rental Dwellings. Tenant parking spaces shall be used solely for the parking of licensed and operable vehicles of the following types: (a) passenger and other personal vehicles; (b) recreational vehicles and equipment, or (c) commercial vehicles with a gross vehicle weight rating (GVWR) that does not exceed 10,000 pounds or which has more than two (2) axles. The provisions of this Subsection shall not prevent the operator of such vehicles from temporarily stopping for the purpose of the expeditious unloading or loading of goods or materials for residential or consumer household use. Tenant parking is also prohibited in any portion of the front yard, boulevard, street right-of-way or public sidewalk associated with the rental dwelling. (Ord 834; 12-3-2019 **Subsection 5 ONLY**)
- (6) Stall, Aisle and Driveway Design.
  - (a) Parking Space Size. Each parking space shall not be less than eight and one-half (8½') feet wide and twenty (20') feet in length, exclusive of access aisles. Each space shall be adequately served by access aisles.
  - (b) Standards. Except for residential structures with four (4) or fewer dwellings, parking areas and their aisles shall be developed in compliance with the standards as specified on the Parking Lot Dimensions Table.
  - (c) Within Structures. The off-street parking requirements may be furnished by providing a space so designed within the principal building or one (1) structure attached to the principal building; however, unless provisions are made, no building permit shall be issued to convert a parking structure into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this Chapter.
  - (d) Internal Circulation. Except for residential structures with four (4) or less dwellings, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley. Parking area design which requires backing into a public street is prohibited.
  - (e) Curb Cuts. Entrances and exits from off-street parking lots shall be located at least 25 feet from the nearest point of any property zoned for single-family residential use.
  - (f) Grade. The grade elevation of any parking area shall not exceed five (5%) percent.
  - (g) Surfacing. Except for single family residences, every parcel of land used as a public or private parking area in any zoning district shall be surfaced with an asphalt, concrete or similar durable surface, and shall be graded and drained to dispose of all surface water. Plans for surfacing and drainage of driveways and stalls for five (5) or more vehicles shall be included on a site plan submitted in accordance with Section 30-36 of this Chapter.
  - (h) Striping. Except for residential structures with four (4) or fewer dwellings, all parking stalls shall be marked with white, yellow, or blue (handicapped) paint lines not less than four (4) inches wide.

- (i) Lighting. Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining property, abutting residential uses and public right-of-way and be in compliance with Section 30-19A. All parking areas, driveways, entrances, exits and walkways shall be illuminated to ensure the security of the property for all persons using such areas.
  - (j) Signs. No sign shall be located so as to restrict the sight lines and orderly operation and traffic movement within any parking lot.
  - (k) Required Screening and Landscaping. All off-street parking areas shall be screened and landscaped in accordance with all applicable requirements found in Section 30-16, pertaining to required screening and landscaping.
  - (l) Curbs, Wheel Chocks. A curb of at least six (6) inches in height shall be installed to prevent motor vehicles from being driven or parking so that any part of the vehicle extends within two (2) feet of abutting landscaped areas, sidewalks, street, building, or adjoining property. In lieu of a curb, wheel chocks may be provided to prevent vehicles from extending over grass areas, setback lines, or lot lines.
  - (m) Maintenance. It shall be the individual responsibility of the lessee and the owner of the principal use, uses or building to maintain in a neat and adequate manner the parking spaces, access-ways, striping landscaping and required screening.
  - (n) Parking Structures. Parking structures are permitted in commercial or industrial zoning districts and may satisfy off-street parking requirements. Parking structures are subject to the area, height, bulk and placement regulations for principal buildings in the zoning districts where they are located.
- (7) Location. All off-street parking required by this Chapter shall be located and restricted as follows:
- (a) Off-street parking shall be on the same lot under the same ownership or affiliation as the principal use being served except under the provisions of Section 30-34 pertaining to special exception uses.
  - (b) In no instance shall parking be allowed on public sidewalk.
  - (c) The boulevard portion of the street right-of-way shall not be used for off-street parking or designed for providing off-street parking spaces.
  - (d) Off-street parking shall not be provided in front yards (or in side yards in the case of a corner lot) in any residential district.
  - (e) Parking shall be prohibited in any portion of the front yard except designated driveways or surfaced space located adjacent to a driveway and surfaced with concrete, bituminous or crushed rock material.
- (8) Use of Required Area. Off-street parking space in any district shall not be utilized for any item or items listed below and are subject to Police Regulations (§4-11) including notices and penalties:
- (a) except as otherwise permitted in this Chapter, open storage, sale or rental of personal property exceeding 14 days
  - (b) storage of inoperable vehicles
- (9) Number of Spaces Required.
- (a) Floor Area. Except as hereinafter may be provided, the term "floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the building, structure or use, times the number of floors, minus ten (10%) percent.
  - (b) Calculating Space.
    - (i) When the required number of off-street parking spaces results in a fraction, each fraction of one-half ( $\frac{1}{2}$ ) or more shall constitute another space.
    - (ii) In places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty-two (22") inches of seating facilities shall be counted as one (1) seat for the purpose of determining parking space requirements.
    - (iii) Except as hereinafter may be provided, should a structure contain two (2) or more types of use, each use shall be calculated separately for determining the total off-street parking spaces required.
  - (c) Number of Spaces Required. Reservation of area for the following minimum number of off-street

parking spaces shall be provided and maintained by ownership, easement and/or lease during the life of the respective uses hereinafter set forth. The Planning Commission shall establish the percentage of reserved parking area to be constructed with the initial development and maintained until such time as the City Commission considers a need for construction of additional parking spaces has been demonstrated.

- (i) Single Family, Two-Family, Townhouse and Condominium Units. At least two (2) spaces for each unit.
- (ii) Multiple Family Dwellings. At least two (2) spaces for each unit.
- (iii) Public Parks, Playgrounds and Playfields with Seating. At least one (1) space for each six (6) seats based on the design capacity.
- (iv) Public places of worship, Theater, Auditorium. At least one (1) parking space for each four (4) seats based on the design capacity of the main assembly hall. Facilities as may be provided in conjunction with such buildings or uses shall be subject to additional requirements which are imposed by this Chapter.
- (v) Community Centers, Private Clubs and Lodges. At least one (1) space for each two (2) patrons of designed capacity.
- (vi) Convalescent Home, Rest Home, Nursing Home or Day Nurseries. At least one (1) space for each staff member (at maximum capacity) on the largest shift plus one (1) for each three (3) beds for which accommodations are offered.
- (vii) Elderly (Senior Citizen) Housing. At least one (1) space for each unit.
- (viii) School, Pre-School through Middle School. At least one (1) space for each staff member plus one (1) space for each fifty (50) students of design capacity.
- (ix) School, High School through College. At least one (1) space for each staff member plus one (1) space for each six (6) students of design capacity.
- (x) Skating Rink, Dance Hall, or Public Auction House. At least twenty (20) spaces plus one (1) space for each two hundred (200) square feet of floor space over two thousand (2000) square feet.
- (xi) Swimming Club, Public Swimming Pool or Racquet Club. At least twenty (20) spaces plus one (1) space for each five hundred (500) square feet of floor area in the principal structure.
- (xii) Office Buildings, Medical and Dental Clinics, Animal Hospitals and Professional Offices. At least three (3) spaces plus one (1) space for each two hundred (200) square feet of floor area.
- (xiii) Bowling Alley. At least five (5) spaces for each alley plus additional spaces as may be required herein for related uses contained within the principal structure.
- (xiv) Retail Store and Service Establishment. At least one (1) space for each two hundred (200) square feet of floor area.
- (xv) Retail Sales and Service Business with Fifty (50%) Percent or More of Gross Floor Area Devoted to Storage and/or Warehouses. At least eight (8) spaces or one (1) space for each two hundred (200) square feet devoted to public sales or service plus one (1) space for each five hundred (500) square feet of storage area.
- (xvi) Restaurants, Cafes, Private Clubs Serving Food and/or Drinks, Bars, Taverns, Nightclubs. At least one (1) space for each forty (40) square feet of gross floor area of dining and bar area plus one (1) space for each eighty (80) square feet of kitchen area.
- (xvii) Drive-In Establishment and Convenience Food. At least one (1) space for each thirty (30) square feet of gross floor area, but not less than thirty (30) spaces.
- (xviii) Undertaking Establishments. At least twenty (20) spaces for each chapel or parlor plus one (1) space for each funeral vehicle maintained on the premises.
- (xix) Shopping Centers. At least five and one-half (5.5) spaces for each one thousand (1,000) square feet of gross leasable floor area (exclusive of common areas).
- (xx) Auto Repair, Boats and Marine Sales and Repair, Shop for a Trade Employing Six (6) or Less People, Garden Supply Store, Building Material Sales in Structure. At least eight (8) spaces plus one (1) space for each two hundred (200) square feet of floor area over one

thousand (1,000) square feet.

- (xxi) Manufacturing, Fabricating or Processing of a Product or Material. At least one (1) and one-half (1 ½) space for each one employee on largest working shift, or one (1) space for each two thousand (2000) square feet of gross floor area, whichever is greater.
  - (xxii) Warehousing, Storage or Handling of Bulk Goods. At least five (5) spaces, plus one (1) space for every company owned truck (if not stored inside the principal building), plus one (1) space for every employee in the largest working shift, or one (1) space for every one thousand seven hundred (1,700) square feet of usable floor space, whichever is greater.
  - (xxiii) Research/Light Manufacturing, Fabricating or Processing of a Product of Material. One and one-half (1 ½) space for each one (1) employee on largest working shift, or one (1) space for each one thousand (1,000) square feet of gross floor area, whichever is greater.
  - (xxiv) Other Uses. Other uses not specifically mentioned in this Section shall be determined on an individual basis by the Zoning Administrator. Factors to be considered in such determinations shall include (without limitation) size of building, type of use, number of employees, expected volume and turnover of customer traffic and expected frequency and number of delivery or service vehicles.
- (d) Barrier Free Parking. Each parking lot that services a building entrance, except single or two-family residential or temporary structures, shall have a number of level parking spaces for the physically handicapped, as set forth in the following table, and identified as being reserved for physically handicapped persons by above grade signs and painted pavement.

| <u>TOTAL SPACES IN PARKING LOT</u> | <u>REQUIRED NUMBER OF ACCESSIBLE SPACES</u>                                    |
|------------------------------------|--|
| Up to 25                           | 1  |
| 26 to 50                           | 2  |
| 51 to 75                           | 3  |
| 76 to 100                          | 4  |
| 101 to 150                         | 5  |
| 151 to 200                         | 6  |
| 201 to 300                         | 8  |
| 301 to 400                         | 12   |
| 401 to 700                         | 14   |
| 701 to 1,000                       | One (1) per fifty (50) parking spaces or fraction thereof.                     |
| Over 1,000                         | Twenty (20) plus one (1) per one hundred (100) exceeding one thousand (1,000). |

Parking spaces for the physically handicapped shall be a minimum of twelve (12) feet wide or, as an alternative, be a minimum of an eight (8) foot space with an adjacent access aisle of five (5) feet and must meet all other applicable requirements as to size as set forth in the Parking Lot Dimensions Table.

- (e) Additional Off-Street Parking. Nothing in this Chapter shall be deemed to prevent voluntary establishment of off-street parking facilities to serve an existing use of land or buildings, or to prevent provision of additional parking facilities beyond what is required by this Chapter, provided all such parking is in conformance with the regulations herein.
- (10) Joint Facilities. Any parking facilities proposed to be shared and used jointly by two (2) or more businesses, where the total number of spaces provided are less than the sum of the total required for each business, shall only be approved as a special exception use in accordance with Section 30-34 and shall be subject to the conditions listed therein.
- (11) Off-Site Parking. Any off-site parking which is used to meet the requirements of this Chapter shall be a special exception use as regulated by Section 30-34 and shall be subject to the conditions listed therein.

**30-18 OFF-STREET LOADING.**

- (A) Purpose. The regulation of loading spaces in these zoning regulations is to alleviate or prevent congestion of the public right-of-way and so to promote the safety and general welfare of the public by establishing minimum requirements for off-street loading and unloading from motor vehicles in accordance with the utilization of various parcels of land or structures.
- (B) Off-Street Loading Required.

- (1) On the same premises with every building, or part thereof, erected and occupied for manufacturing, storage, warehousing, retailing, display and sale of goods, including department stores, wholesale stores, markets, hotels, hospitals, mortuaries, laundries, dry cleaning establishments, and other uses involving the receipt or distribution of materials, merchandise, or vehicles, there shall be provided and maintained adequate space for loading and unloading as required in this Section.
- (2) Change in Use or Intensity. Whenever the use of a building, structure, or lot is changed, loading space shall be provided as required by this Section for the new use, regardless of any variance which may have been in effect prior to such change of use.

(C) Location.

- (1) All required loading berths shall be off-street and located on the same lot as the building use to be served.
- (2) All loading berth curb cuts shall be located at a minimum of fifty (50') feet from the intersection of two (2) or more street right-of-ways. This distance shall be measured from the property line.
- (3) No loading berth shall be located closer than fifty (50') feet from a residential district or use unless it is located entirely within an enclosed building, or is screened on all sides from the residential zoning district or use by a six (6) foot high solid masonry wall. An ornamental fence not less than six (6) feet in height may be substituted for the masonry wall with the approval of the Planning Commission.
- (4) Loading berths shall be located to the rear or on the side of the building being served such that it is screened from view from adjacent roads. Loading/unloading operations shall not interfere with traffic on public streets or off-street parking.
- (5) Surfacing. All loading berths and access-ways shall be surfaced and drained as provided in Section 30-17(D)(6)(g), pertaining to surfacing.
- (6) Accessory Use, Parking and Storage. Any space allocated as a required loading berth or access drive so as to comply with the terms of these zoning regulations shall not be used for the storage of goods, inoperable vehicles or snow and shall not be included as part of the space requirements to meet the off-street parking area.
- (7) Size. Unless otherwise specified in this Chapter, loading berths shall be a minimum of twenty-five (25') feet in length and all loading berths shall be a minimum of ten (10') feet in width and fourteen (14') feet in height, exclusive of aisle and maneuvering space.
- (8) Number of Loading Berths Required. The number of required off-street loading berths shall be determined by floor area, as defined in Section 30-17(9)(a), as follows:
  - (a) For each building between five-thousand (5,000) square feet and twenty-thousand (20,000) square feet, one (1) berth; twenty to fifty thousand (20-50,000) square feet, two (2) berths; for each additional one-hundred thousand (100,000) square feet or fraction thereof, one (1) berth.
  - (b) Establishments containing less than 5,000 square feet of floor area shall be provided with adequate off-street loading space that is accessible by motor vehicle, but which does not interfere with pedestrian or vehicular traffic. The size of any such loading space shall be based on the types of delivery vehicles typically utilized by the establishment, as determined by the Planning Commission, provided that in industrial districts, sufficient land area must be available to provide a ten (10') feet by twenty-five (25') feet space in the event that the use of the property changes.

**30-19 SIGNS.**

- (A) Findings. The City Commission finds that signs and other visual outdoor advertising are necessary to the commerce, health, safety and general welfare of the City. Further, it finds that failure to regulate their size, location and construction may lead to poor identification of individual businesses, deterioration of the business and residential areas of the City, intensification of the conflicts between different types of land use, reduction in the effectiveness of traffic-control devices, and safety hazards to pedestrians and motorists. Further, it finds that the City's economic base is dependent upon preserving property values and a healthy business climate.
- (B) Purpose. This Section establishes a comprehensive series of standards, regulations and procedures governing signs or symbols serving as a visual communication media to persons which are situated within or upon public right-of-ways or properties. The provisions of this Section are intended to encourage opportunity for effective, orderly communication by reducing confusion and hazard resulting from unnecessary and/or indiscriminate use of communication facilities.

To achieve this purpose, this Section has the following objectives:

- (1) To prevent the placement of signs in a manner that will conceal or obscure signs or adjacent businesses.
- (2) To keep the number of signs and sign messages at the level reasonably necessary to identify a business

and its products.

- (3) To keep signs within a reasonable scale with respect to the buildings to which they relate.
- (4) To prevent off-premises signs from conflicting with business, residential and public land uses.
- (5) To keep an area adjacent to streets clean of signs which might obstruct or distract the view of motorists.
- (6) To reduce the visual and physical obstructions to motorists entering or leaving streets.

(C) General Provisions.

- (1) When electrical signs are installed, all signs shall be designed and constructed in conformity to the provisions of the Building Code, National Electrical Code, the latest adopted edition of the B.O.C.A Code, and the Electrical Code of the State of Michigan, as may be amended.
- (2) No signs other than governmental signs shall be erected or temporarily placed within any street right-of-way or upon any public lands or easements or rights-of-ways.
- (3) The temporary use of searchlights, banners, pennants, portable signs and similar devices shall require a temporary sign permit from the City. Temporary signs shall not be subject to the provisions outlined for each specific district. The maximum size for a temporary sign shall not exceed forty-five (45) square feet.
- (4) All canopy-style signs located over public right-of-way or over any public or private access route (sidewalks, etc.) shall be located a minimum of eight (8) feet above surface grade. Except as otherwise allowed, no sign shall project over any street or alley surface.
- (5) All height restrictions on signs shall include height of sign structure and be measured from lot grade.
- (6) Any sign, including sign structure, now or hereafter existing which no longer advertises or identifies a bonafide business conducted, or a service rendered, or a product sold shall be removed by the owner, agent, or person having the beneficial use and/or control of the building, structure, or property upon which the sign may be found within thirty (30) days after written notice from the City. Failure to remove the sign in accordance with the written notice will result in the City causing the sign to be removed and / or new blank panels installed by a sign company at the owner's expense. The cost of such will be assessed against the real estate.
- (7) If at any time, it is found by the City that any sign, billboard, or advertising structure which may have been erected in compliance with this Chapter has become worn, injured, or not maintained so that it then fails to comply with the provisions of this Chapter, then the City shall so notify the owner thereof and demand that the same be removed or repaired. Failure to remove or repair the sign in accordance with the notice sent will result in the City causing the repair or removal at the owner's expense.
- (8) No sign shall be erected, constructed, or maintained so as to obstruct any fire exit, required exit, window, door opening, or wall opening intended as a means of ingress or egress.
- (9) No sign shall be erected, constructed, or maintained so as to interfere with any opening required for ventilation.
- (10) All signs shall be located in such a way that they maintain horizontal and vertical clearance of all electrical power lines and communication lines in accordance with the applicable provisions of the Electrical Code. However, in no instance shall a sign be erected within eight (8') feet of any electrical power line, conductor, or service drop or any other communication line, conductor, or service top.
- (11) All signs and their supporting structures shall maintain clearance and noninterference with all surface and underground facilities and conduits for water, sewage, gas, electricity, or communication equipment or lines. In addition, the placement of all signs and their supporting structures shall not interfere with natural or artificial drainage or surface or underground water.
- (12) No sign shall be erected, constructed or maintained so as to interfere with any existing warning or instructional sign.

(D) Measurement of Sign Area, Height and Setback. Dimensional standards and measurements for signs shall be subject to the following:

- (1) Sign Area. The surface area shall be measured and defined by the area which encloses the extreme limits of individual letters, words, symbols or message of the sign together with any frame.
  - (a) Where two (2) sign faces with identical sign areas are placed back to back within two (2) feet of one another, then the sign area shall equal the area of one (1) face.
  - (b) Where two (2) sign faces with different sign areas are placed back to back within two (2) feet of one another, then the sign area shall equal the area of the larger face.

- (c) Where two (2) sign faces with different sign areas are placed more than two (2) feet from one another at any point, then the sign area shall equal the total area of all sign faces.
  - (2) Sign Height. The distance from the average level of the ground or pavement directly below the sign to the highest point of the sign structure, including any supportive or decorative elements.
  - (3) Sign Setback. Setbacks shall measure from the closest street right-of-way or front property line to the nearest edge of the sign.
- (E) District Regulations. The following signs are allowed in the various zoning districts as provided in this Section. Signs are allowed to be installed on the side of a building in accordance with the specific requirements of each zoning district.
- (1) Residential District (R-1 through Mobile Home District R-MH). Signs permitted in Section titled "Permitted Signs" are allowed in residential districts except as noted.
  - (2) Neighborhood Business District (B-1). Signs shall be limited to one (1) wall or canopy sign, and one (1) monument sign on the premises of a business establishment or composite of businesses under single ownership by an individual firm, or corporation. On parcels fronting two (2) or more streets, one (1) monument sign is allowed for each street frontage. On parcels with five hundred (500) feet of total street frontage on one (1) street or seven hundred (700) feet of total street frontage on two (2) or more streets, one (1) additional monument sign is allowed.
    - (a) The total area of each sign permitted shall not exceed five (5) square feet for each ten (10') feet or fraction of street frontage or fifty (50) square feet for each acre or fraction thereof, whichever is larger. However, in no case shall the area of any sign exceed one hundred (100) square feet.
    - (b) Where any premises has more than one occupant, the permitted area of each sign shall be divided among them in the same proportion as floor space and outdoor sales space which is occupied by them.
    - (c) Where the premises has more than two occupants, and has a name distinct from that of an occupant, as in a shopping mall, an additional three (3) square feet of sign area for each ten (10') feet or fraction of street frontage up to a maximum of seventy-five (75) square feet, is allowed for monument signs. This additional sign area shall be used only to display the name of the premises.
    - (d) Structures containing a floor area of ten thousand (10,000) square feet or more and having multiple tenants, may have one (1) wall or canopy sign identifying only the name and/or business for each tenant, provided no single sign is greater than ten (10 percent of the gross silhouette area of the tenant building front to which it is attached or one hundred (100) square feet, whichever is lesser. For the purposes of determining the gross silhouette of the tenant building front, the silhouette shall be defined as that area within an outline drawing of the tenant building front as viewed from the main entrance of the tenant building. Main entrance shall be determined by the Zoning Administrator.
    - (e) The maximum height for a monument sign shall not exceed twelve (12) feet. The placement of monument signs shall comply with the traffic visibility requirements outlined in Section 30-19, (G), (1) below.
    - (f) Any canopy structure to which a canopy sign is attached shall not be less than two (2) feet from any vehicular parking space or maneuvering lane. A minimum underclearance of eight (8) feet shall be maintained above a sidewalk by all canopy structures. Canopies hereafter erected shall, whenever practicable, match the established underclearance height and projection of canopies which exist on abutting parcels and/or businesses.
  - (3) Central Business District (B-3). Signs shall be limited to one (1) wall, canopy, or projecting sign, and one (1) monument sign on the premises of a business establishment or composite of businesses under single ownership by an individual, firm or corporation. On parcels fronting two (2) or more streets, one (1) wall, canopy or projecting sign and one (1) monument sign is allowed for each street frontage. On parcels with five hundred (500) feet of total street frontage on one (1) street or seven hundred (700) feet of total street frontage on two (2) or more streets, one (1) additional monument sign is allowed.
    - (a) The total area of each sign permitted shall not exceed ten (10%) percent of the gross silhouette area of the building front, or ten (10) square feet for each ten (10') feet or fraction of street frontage, whichever is greater. An additional five (5%) percent of gross silhouette area of the building front, or five (5) square feet for each ten (10') feet or fraction of street frontage may be added to the total permitted sign area when more than one separately conducted business is contained within the building. However, in no case shall the area of any sign exceed one hundred (100) square feet. For the purposes of determining the gross silhouette of the building, the silhouette shall be defined as that area within an outline drawing of the principal building as viewed from the main entrance of the

- building. Main entrance shall be determined by the Zoning Administrator.
- (b) Where any premises has more than one occupant, the permitted area of each sign shall be divided among them in the same proportion as floor space and outdoor sales space which is occupied by them.
  - (c) Structures containing a floor area of ten thousand (10,000) square feet or more and having multiple tenants, may have one (1) wall, canopy or projecting sign identifying only the name and/or business for each tenant, provided no single sign is greater than ten (10%) percent of the gross silhouette area of the tenant building front to which it is attached or one hundred (100) square feet, whichever is lesser. For the purposes of determining the gross silhouette of the building, the silhouette shall be defined as that area within an outline drawing of the principal building as viewed from the main entrance of the building. Main entrance shall be determined by the Zoning Administrator.
  - (d) The maximum height for a monument sign shall not exceed twelve (12) feet.
  - (e) Any projecting sign or canopy structure, to which a canopy sign is attached, shall not be less than two (2) feet from any vehicular parking space or maneuvering lane. A minimum under-clearance of eight (8) feet shall be maintained above a sidewalk by all canopy structures. Canopies hereafter erected shall, whenever practicable, match the established under-clearance height and projection of canopies which exist on abutting parcels and/or businesses
- (4) General Business and Industrial Districts (B-2, I-1, and I-2). Signs shall be limited to one (1) wall, canopy, or projecting sign, and one (1) monument sign or pylon sign on the premises of a business establishment or composite of businesses under single ownership by an individual, firm or corporation. On parcels fronting two (2) or more streets, one (1) monument or pylon sign is allowed for each street frontage. On parcels with five hundred (500) feet of total street frontage on one (1) street or seven hundred (700) feet of total street frontage on two (2) or more streets, one (1) additional monument or pylon sign is allowed.
- (a) The total area of each sign permitted shall not exceed ten (10) square feet for each ten (10) feet or fraction of street frontage, or seventy-five (75) square feet for each acre or fraction thereof, whichever is greater. However, in no case shall the area of any sign exceed one hundred and fifty (150) square feet.
  - (b) Where any premises has more than one occupant, the permitted area of each sign shall be divided among them in the same proportion as floor space and outdoor sales space which is occupied by them.
  - (c) Where the premises has more than two (2) occupants, and has a name distinct from that of an occupant, as in a shopping mall, an additional five (5) square feet of sign area for each ten (10') feet or fraction of street frontage up to a maximum of one hundred (100) square is allowed for monument or pylon signs. This additional sign area shall be used only to display the name of the premises.
  - (d) Structures containing a floor area of ten thousand (10,000) square feet or more and having multiple tenants, may have one (1) wall, canopy or projecting sign identifying only the name and/or business for each tenant, provided no single sign is greater than ten (10%) percent of the gross silhouette area of the tenant building front to which it is attached or one hundred (100) square feet, whichever is lesser. For the purposes of determining the gross silhouette of the building, the silhouette shall be defined as that area within an outline drawing of the principal building as viewed from the main entrance of the building. Main entrance shall be determined by the Zoning Administrator.
  - (e) The maximum height for a monument sign shall not exceed fifteen (15) feet. The maximum height for a pylon sign shall not exceed twenty-five (25) feet.
  - (f) Any canopy structure to which a canopy sign is attached shall not be less than two (2) feet from any vehicular parking space or maneuvering lane. A minimum under-clearance of eight (8) feet shall be maintained above a sidewalk by all canopy structures. Canopies hereafter erected shall, whenever practicable, match the established under-clearance height and projection of canopies which exist on abutting parcels and/or businesses
- (5) Industrial Park and Airport Districts (I-3, I-4 and A). Identification signs shall be of the monument type and/or the wall or fascia type. One of each type is permitted. Monument signs shall not exceed sixty (60) square feet per side nor have a total height greater than eight (8') feet. Monument signs shall have a minimum setback equal to the actual sign height, Wall or fascia type shall not exceed ten (10') percent of the gross silhouette area of the building front. Informational signs are permitted as required. Pylon or pole type signs, billboard signs, and roof signs are prohibited. An identification sign for an industrial park entrance shall not exceed one hundred (100) square feet per side nor have a total height greater than twelve (12') feet.

(F) Allowable Signs. The following signs are allowed in all zoning districts and, except as otherwise provided, shall comply with all applicable provisions of this Chapter. It shall be unlawful to erect or replace any sign except as provided in this Chapter.

(1) Signs allowed and exempt from permits

(a) Integral Signs

(b) Political Campaign Signs. Shall not exceed four (4) square feet in all residential districts, or twelve (12) square feet in all other zoning districts. Every campaign sign must contain the name and address of the person(s) responsible for placement and removal of the sign. Signs erected before any election shall remain in place for no longer than five (5) days after the election for which they are intended. The City shall have the right to remove and destroy unsightly signs or remove signs after the five (5) day limit. Signs may be placed to the property line. Campaign signs shall not be erected within one hundred (100') feet of any entrance to a building where a polling place is located.

(c) Holiday Signs. All holiday signs and placement shall be approved by the Zoning Administrator and shall be displayed for a period not to exceed sixty (60) days.

(d) Construction Signs. Construction signs shall be confined to the site of the construction, alteration, or repair and shall be removed within two (2) years of the date of issuance of the first building permit or when the particular project is completed, whichever is sooner as determined by the Building Official. One sign shall be permitted for each street the project abuts. No sign may exceed ten (10) square feet in a residential district or fifty (50) square feet in a business or industrial district.

(e) Real Estate or Rental Signs. Signs must be removed within fourteen (14) days after sale or rental of property. Signs may not measure more than six (6) square feet in residential districts, nor more than twenty (20) square feet in all other districts. There shall be only one sign for each street frontage. Real estate sale signs may be placed to the property line.

(f) Information Signs. Signs shall not be larger than five (5) square feet and shall conform to the location provisions of the specific district. Information signs are prohibited in residential districts

(g) Non-Profit Events. Signs which advertise events sponsored by non-profit organizations shall not exceed four (4) square feet. These signs do not require a permit but must be removed within five (5) days after the event advertised.

(h) Governmental Signs. May be placed as determined necessary or required by governmental unit.

(2) Signs allowed but require permits (non-exempt)

(a) Pylon and Monument Signs. No portion of any pylon or monument sign shall be nearer than five (5') feet to any property line or driveway.

(b) Identification Signs. There may be one on each premises not to exceed six (6) square feet in area. If the sign is free standing, the total height may not exceed five (5) feet. Identification signs are prohibited in residential districts except for premises having a Home Occupation Permit, which premises may have one wall sign.

(c) Bulletin Board Signs. Signs may not exceed twenty-four (24) square feet in area. Signs shall be limited to one sign per street frontage and may be located to one-half the required setback.

(d) Institutional or Area Identification Signs. The sign area shall not exceed twenty-four (24) square feet; and if the sign is freestanding, the height does not exceed eight (8) feet.

(G) Prohibited Signs. The following signs are specifically prohibited by this Chapter.

- (1) Any sign, by reason of its size, location, content, coloring, or manner of illumination, which obstructs the vision of drivers or pedestrians, or detracts from the visibility of any official traffic control device.
- (2) Any sign which contains or imitates an official traffic sign or signal except for private, on-premises informational signs.
- (3) Any sign which moves or rotates. Exempted are time and/or temperature information signs and barber poles.
- (4) Off-premises advertising signs except for signs which advertise events sponsored by nonprofit organizations, and signs found on fences inside of baseball parks and billboards.
- (5) Signs which contain a registered trademark or portray a specific commodity for sale occupying more than ten (10%) percent of the sign area unless the registered trademark or commodity is the principal activity

conducted on the premises.

- (6) No person shall stand or park a motor vehicle on public or private property in the City for the purpose of advertising the same "for sale" or "for trade". The owner of a motor vehicle may place a "for sale" or "for trade" sign within the vehicle provided the vehicle is located on the owner's premises. This Section shall not apply to properly licensed automobile dealerships and properly licensed used car lots.
- (7) Roof signs.
- (8) No sign shall be placed in the area between the street and the sidewalk (a/k/a street terrace) or other City right-of-way except as permitted by this Chapter. No sign shall be attached in any manner to trees, fences, utility poles or other such permanent supports in the right-of-way.
- (9) Any sign not located on the lot for which it advertises is prohibited except identification signs for non-profit organizations.

(H) Legal Non-Conforming Signs.

- (1) The following are legal nonconforming signs:
  - (a) Signs which lawfully existed prior to the effective date of adoption or amendment of this Zoning Ordinance which are no longer permitted by this Chapter.
  - (b) All other signs, not now prohibited, which existed prior to the effective date of adoption or amendment of this Zoning Ordinance, but do not conform to the provisions of this Chapter.
  - (c) A nonconforming sign may not be:
    - (i) Changed to another nonconforming sign.
    - (ii) Structurally altered except to bring into compliance with the provisions of this Chapter.
    - (iii) Expanded.
    - (iv) Reestablished after its removal for thirty (30) days or more.
    - (v) Reestablished after damage of more than fifty (50%) percent of sign replacement cost except to bring into compliance.
  - (d) Maintenance and Repair. Nothing in this Section shall be construed as relieving the owner or user of a legal non-conforming sign or owner of the property on which the legal non-conforming sign is located from the provisions of this Chapter regarding safety, maintenance, and repair of signs provided, however, that any repainting, cleaning, and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure or copy in any way which makes it more nonconforming or the sign shall lose its legal nonconforming status.

(I) Permits.

- (1) Exempt vs. Non-exempt: Signs that do not require a permit (exempt) are differentiated from signs that require a permit (non-exempt) as follows:
  - (a) Signs that are allowed and that which are exempt from permits are listed under Section 30-19(F)(1) of this Chapter.
  - (b) Signs that are allowed and that which are *not* exempt from permits are listed under Section 30-19(F)(2) of this Chapter.
- (2) A permit is required for any sign that is erected, moved to another location or reconstructed either on the same or other premises.
- (3) Written application for a sign permit shall contain the following information:
  - (a) Name, address, and telephone number of the applicant.
  - (b) Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.
  - (c) Position of the sign or other advertising structure in relation to nearby buildings or structures.
  - (d) Two (2) blueprints or ink drawings of the plans and specifications and method of construction and attachment to the building or in the ground.
  - (e) Name of person erecting the sign structure.
  - (f) Written consent of the owner of the building, structure, or land to which or on which the sign structure is to be erected.
  - (g) Any electrical permit required and issued for the sign. Application requesting electrical permit for a

proposed sign must accompany sign application.

- (h) Such other information as the Zoning Administrator may require to show full compliance with this Chapter.
  - (i) For temporary sign permits, a map of the location of all the signs to be erected with the dates of erection and removal.
- (4) Temporary Sign Permits. Temporary sign permits shall not exceed thirty (30) days with one renewal to a maximum of sixty (60) days in one calendar year. All temporary signs must be removed no later than five (5) days after the event for which it advertises is over.
- (5) Permit Fees.
- (a) Permit fees for signs shall be based on square footage of sign area.
  - (b) The fee for any required permit shall be doubled if the sign is erected prior to issuance of a permit.
  - (c) Sign permit fees: See Section 6.3 of City Code Chapter 6.
- (J) Appeals. Any person aggrieved by a decision of the Zoning Administrator relative to the placement, area, height, or construction of a sign may appeal such decision to the Zoning Board of Appeals. The Zoning Board of Appeals may grant a variance after a public hearing.
- (1) Variances. The Zoning Board of Appeals has the power to grant specific variances from the requirements of this Chapter upon showing that:
- (a) The variance would not be contrary to the public interest or general purpose and intent of this Chapter.
  - (b) The variance does not adversely affect properties in the immediate vicinity of the proposed sign.
  - (c) The petitioner has practical difficulty resulting from the unusual characteristics of the property that precludes reasonable use of the property.
  - (d) All sign variances shall terminate upon alteration or reconstruction of more than fifty (50%) percent of the sign or at a date set by the Zoning Board of Appeals, whichever occurs first.
- (K) Special Sign Considerations.
- (1) Signs in National Downtown Historical District.
- (a) All signs in this area shall comply with provisions in this Chapter and be constructed within the guidelines of the Downtown National Register Historic District or any locally adopted Historic District Plan.
  - (b) Sandwich board signs shall be permitted to be placed up to the curb line. Maximum size for these signs is three (3) feet by four (4) feet. Signs shall be non-electrical. No permit shall be required.
- (L) Administration and Enforcement.
- (1) The Zoning Administrator shall have the authority to issue sign permits.
  - (2) Painting, repainting, repairing, servicing or cleaning of a sign or the changing of the business or product copy of a message thereon shall not be considered an erection or alteration which requires a sign permit unless a structural change is made.
  - (3) Any sign constituting an immediate hazard to public health or safety is deemed a nuisance and may be removed by the City at the expense of the owner of the sign.
- (M) Changeable Signs.
- (1) Definitions as used in this Section.
- (a) "Changeable Sign" means an on-premises sign created, designed, manufactured or modified in such a way that its Message may be electronically, digitally or mechanically altered by the complete substitution or replacement of one Display by another on each side.
  - (b) "Display" means that portion of the surface area of a Changeable Sign that is, or is designed to be or is capable of being periodically altered for the purpose of conveying a Message.
  - (c) "Message" means a communication conveyed by means of a visual display of text.
  - (d) "Nit" means a unit of illuminative brightness equal to one candle per square meter, measured perpendicular to rays of the source.

- (d) "Scrolling" means the moving of text across a Display as if by unrolling a scroll.
  - (e) "Time and Temperature Sign" means a Changeable Sign that electronically or mechanically displays the time and temperature by complete substitution or replacement of a Display showing the time with a Display showing the temperature.
- (2) Display.
- (a) The Display of the sign shall not change more rapidly than once every one and one-half (1.5) seconds.
  - (b) The display shall not, or shall not appear to, flash, undulate, pulse, or portray explosions, fireworks, flashes of light, or blinking or chasing lights; the display shall not appear to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist or otherwise portray movement or animation as it comes onto, is displayed on, or leaves the sign board.
  - (c) Scrolling or traveling of a static display onto the sign from one (1) direction only per display shall be allowed; provided, that each display remains in a static state for at least one and one-half (1.5) seconds. There shall be ten (10) seconds of still image or blank screen following every scrolling or traveling display.
  - (d) No Message shall require more than ten (10) seconds to be displayed in its entirety.
  - (e) The Display shall have a dark background with only the message or foreground lit in a red, white, amber or other light tone or shade.
- (3) Light Levels.
- (a) All signs shall have installed ambient light monitors and shall at all times allow such monitors to automatically adjust the brightness level of the electronic sign based on ambient light conditions.
  - (b) Maximum brightness levels for electronic signs in commercial/industrial zones shall not exceed eight thousand (8,000) nits when measured from the sign's face at its maximum brightness, during daylight hours and five hundred (500) nits when measured from the sign's face at its maximum brightness between dusk and dawn.
  - (c) At no time shall the sign be operated at a brightness level greater than the manufacturer's recommended levels.
- (4) Residential Zones.
- (a) Changeable signs shall not be allowed within any dwelling or home occupation in any residential zone.
  - (b) Businesses, public places of worship or schools are allowed changeable signs providing that:
    - (i) They comply with all relevant provisions of this Section;
    - (ii) The brightness level shall not exceed eight thousand (8,000) nits when measured from the sign's face at its maximum brightness during the daylight hours and five hundred (500) nits when measured from the sign's face at its maximum brightness between dusk and dawn;
    - (iii) Changeable displays in residential zones shall be turned off between the hours of 10:00 p.m. and 7:00 a.m.
- (5) Additional Requirements.
- (a) Changeable sign permit applications must include a copy of the manufacturer's operating manual, which includes the manufacturer's recommended standards for brightness, scrolling or traveling speed, and other display operations.
  - (b) Changeable sign permit applications must also include a certification from the owner or operator of the sign stating that the sign shall at all times be operated in accordance with applicable provisions of the City Code and that the owner or operator shall provide proof of such conformance upon request of the City.
  - (c) Whether the sign is programmed from the site or from a remote location, the computer interface that programs the sign shall be available to City staff for inspection upon request. If the computer interface is not immediately available, the sign shall cease operation until such program can be provided.

- (A) Outdoor lighting in any district used to light the general area of a specific site shall be downward directed and shielded to reduce glare and shall be so arranged as to reflect lights away from all adjacent Residential Districts or adjacent residences.
- (B) Outdoor lighting poles or standards shall not exceed a maximum height limitation of twenty-five (25) feet.
- (C) Outdoor lighting in any district shall be directed toward and confined within the boundaries of the lot or parcel or parking lots.
- (D) Any lighting used to illuminate an off-street parking area, sign or other structure shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property.
- (E) Artificial light shall be maintained in a manner so as not to constitute a hazard or nuisance.

### 30-19B EXTERIOR BUILDING WALL MATERIALS.

- (A) The purpose of this section is to serve as a guideline for the establishment of a harmonious exterior building wall appearance for all the walls of a building that are designed so as to create, enhance and promote a uniform, qualitative visual environment throughout the City.
- (B) The following exterior building wall material standards shall apply to:
  - (1) Residential dwellings.
    - (a) First-floor additions to existing homes shall consist of the same exterior building wall materials as the existing home, or of materials consistent with a majority of the additions in the surrounding area.
    - (b) Second-story additions to existing one-story buildings shall consist of the same exterior building wall materials as the first floor, except that other materials may be used, provided that the materials are horizontal in appearance with no more than thirty percent vertical trim accent and are consistent with the majority of the surrounding homes in the area.
  - (2) Nonresidential buildings.
    - (a) Except where otherwise regulated in this section, the exterior walls of a nonresidential building and any related accessory building, including retaining walls, shall consist of the wall materials and/or combinations of materials expressly permitted in this section.
    - (b) The exterior building walls of a nonresidential building shall consist of the following materials or combinations thereof:
      - i. Brick
      - ii. Glazed kiln-baked clay or shale ceramic masonry units, or cut stone or field stone, when these materials are used on not more than twenty (20) percent of the building as accent materials.
      - iii. Split-face block which shall be treated (impregnated, not painted) with earth tone or natural colors. The split-face block must have a rough, stone-like texture created by splitting the block during production. The size of the split-face block shall be scaled appropriately to the height of the building and the setback from the road right-of-way. Split-face block's larger than six inches in height and 16 inches in length must be approved by the Zoning Administrator after a recommendation from the Planning Commission.
      - iv. Precast concrete in a form and pattern which may consist of its natural color or which may be treated (impregnated, not painted) with earth tone colors.
      - v. Finished cementitious materials, including finished systems and stucco, which shall be treated (impregnated, not painted) with earth tone colors and shall be utilized on not more than twenty (20) percent of the building as accent materials.
      - vi. Metal materials, including standing, seamed or ribbed panels and stainless steel shall be utilized in not more than twenty (20) percent of the building as accent materials.
- (C) Materials specifically prohibited include:
  - (1) Concrete masonry units (CMU), such as block, pattern and fluted.
  - (2) Tarred paper, tin, corrugated iron, porcelain clad and steel flat sheets.

- (3) Pressed or laminated wood products.
  - (4) Similar products or materials.
- (D) If an applicant requests the use of other materials not specifically permitted in subsection (B) but not prohibited in subsection (C), said materials shall be reviewed and approved by Planning Commission. The Planning Commission may approve alternative materials only when it determines that such materials will:
- (1) Be in direct harmony with the intent and purpose of this section and will stand to further promote the uniform and qualitative visual environment of the City.
  - (2) Meet all applicable requirements of the City's Building Code.

**30-20 SCHEDULE OF REGULATIONS. See Chart No. 3**

(A) Notes to Schedule of Regulations.

- (1) Where properties of different zone districts are contiguous, and one (1) or both of the properties is in a residential district, the minimum yard setbacks of the higher residential district shall apply to the other property unless the minimum requirements of the abutting property are more stringent, or unless otherwise provided by this Chapter.
- (2) Where front yards of two (2) or more principal structures in any block (in the case of platted lots) or within three-hundred (300') feet (in the case of unplatted lots) in existence prior to August 22, 1983, within the district zoned and on the same side of the street are less than the minimum front yards required herein, then any building subsequently erected within said block or three hundred (300') feet shall not be less and need not be greater than the average depth of the front yards of the existing structures.
- (3) All exterior side yards abutting a street shall be provided with a setback equal to the front yard setback requirements of the district in which located and all regulations applicable to a front yard shall apply. However, in a residential District when two rear yards abut each other at a block end, the exterior side yard setback may be equal to the minimum side yard setback of the District.
- (4) Where a B-1, B-2 or B-3 Business District is contiguous to any residential district, any contiguous side or rear yard shall be a minimum of twenty (20') feet.
- (5) Where an I-1 Industrial District is contiguous to any residential district, any contiguous side or rear yard shall be a minimum of twenty-five (25') feet.
- (6) Where an I-2 Industrial District or An Airport District is contiguous to any residential district, any contiguous side or rear yard shall be a minimum of thirty-five (35) feet.
- (7) No building shall be located within twenty (20') feet of any front lot line located across the street from any residential district.
- (8) The following uses are excepted from height requirements:
  - (a) Parapet walls not exceeding four (4') feet in height, chimneys, communication towers, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, penthouses, stacks, stage towers or scenery lofts, flour tanks, water towers, ornamental towers, monuments, cupolas, domes and spires, necessary mechanical appurtenances, or additions to existing buildings which prior to August 22, 1983, exceeded the height limitations of the zoning district up to the height of the existing building.
- (9) Yard Requirements.
  - (a) No lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this Chapter; and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced. No required open space provided about any building or structure shall be included as part of any open space required for another structure.
  - (b) The following shall not be considered as encroachments on required yard setbacks for all lots:
    - (i) Chimneys, flues, belt courses, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters and the like provided they do not project more than two (2') feet into a required yard.
    - (ii) An enclosed entrance for a detached single family, two family or town house dwelling may extend into the front yard setback not more than four (4') feet.
    - (iii) Terraces, steps, wheelchair ramps, uncovered porches, stoops, landings or similar features.

- (iv) Laundry drying and recreational equipment, arbors, trellises, air conditioning or heating equipment in side or rear yards to a point no closer than five (5') feet from any lot line.
- (v) One (1) detached accessory building not exceeding eight (8') feet in height, nor one-hundred (100) square feet in area in the rear yard to a point no closer than five (5') feet from any lot line. (Ord. 820; 2-20-2018)

(10) Residential Clustering Option

(A) The purpose of this option is to promote an alternative means of development on land which is residentially zoned. These provisions will allow the same number of home sites, but cluster the homes on no more than 80 percent of the buildable land, while leaving the unused land perpetually in a undeveloped state by means of a conservation easement, plat dedication, restrictive covenant or other legal means that runs with the land as required by Section 506 of Public Act 110 of 2006, as amended (Michigan Zoning Enabling Act).

(B) At the option of the landowner, in areas zoned for single-family residential purposes, the minimum yard setbacks, building heights, and minimum lot sizes per unit as required by Section 30-20 and Chart 3, Schedule of Regulations, may be waived by the City, and the clustering of dwellings units allowed, subject to the following:

- (i) The minimum floor area for all units constructed under this option shall be at least equal to the minimum floor area requirements for the single-family residential district in which the cluster is to be constructed.
- (ii) The maximum number of units attached shall not exceed four (4) units.
- (iii) The exterior design of the structures shall be compatible with existing single family structures located in the general area of the project in regards to architectural style, size, overall floor area and heights. Variety in the design of individual units shall be provided by the use of design details which do not appear to be continuous or repetitious. A building pattern which is repetitious throughout the project shall not be permitted.
- (iv) Yard requirements shall be provided under this option as follows:
  - (a) Minimum spacing between clusters shall be determined by the number of living units that are arranged in any cluster group as shown on the following table.

| <u>No. of Living Units Per Cluster</u> | <u>Minimum Distance<br/>(Feet Between Clusters)</u> |
|--|---|
| 1 unit and 1 unit                      | 10  |
| 1 unit and 2 units                     | 10  |
| 1 unit and 3 units                     | 20  |
| 1 unit and 4 units                     | 20  |
| 2 units and 2 units                    | 10  |
| 2 units and 3 units                    | 20  |
| 2 units and 4 units                    | 20  |
| 3 units and 3 units                    | 20  |
| 3 units and 4 units                    | 20  |
| 4 units and 4 units                    | 20  |

- (b) All such groupings shall be so situated as to have one (1) side of the building abutting onto open space.
- (c) Any side of a building adjacent to a private service drive or private lane shall not be nearer to such drive or lane than twenty (20) feet, measured from the edge of the nearest travel lane.
- (d) Any side of a building adjacent to a public right-of-way shall not be nearer to such public right-of-way than thirty (30) feet.
- (e) When the project abuts a front yard of an existing recorded subdivision which is not a part of the site plan submitted under this Section, all dwelling units of the project facing such subdivision shall relate through its front or entrance facade and shall treat such side of the groupings as front yard.
  - (f) No building shall be located closer than fifteen (15) feet to the outer perimeter (property line) of the site.
- (v) The maximum height of buildings under this option shall be thirty (30) feet.

- (vi) Density for a site shall be based upon gross area divided by the number of units allowed as established for minimum lot sizes for the zoning district in which the subject site is located. The resulting development yield, expressed in terms of total dwelling units, determined through such computation shall be distributed throughout a contiguous area equal to 80 percent of the subject site buildable area. All remaining land area shall perpetually remain in an undeveloped state pursuant to Section 20-30 (a) (10).(E), below.
- (C) In reviewing the plans and approving the application of this Section at a particular site, the Planning Commission may recommend and the City Commission require a landscaped berm, at least three (3) feet in height along the entire property line abutting the major thoroughfare. This berm may be included within a required side or rear yard. The slopes on such berms shall be gentle enough so as not to erode when planted in grass and the horizontal view of oncoming traffic shall not be obscured.
  - (D) In submitting a proposed layout under this Section, the sponsor of the development shall include, along the site plan, typical building elevations and floor plans, topography drawn at two (2) foot contour intervals, main floor grade elevations relative to the existing topography, all computations relative to acreage and density, details relative to the proposed berm, and any other details which will assist in reviewing the proposed plan.
- (E) Site plans submitted under this option shall be submitted and reviewed in conformance with Section 30-36 of this Chapter. All land not intended to be conveyed to individual dwelling unit owners under this option shall be protected by conservation easements, plat dedications, restrictive covenants, or other legal means which runs with the land and which prohibits their development in perpetuity. Such legal means must be approved by the City Attorney to assure such unused land remains perpetually in an undeveloped state, Such open space areas shall represent twenty (20%) percent of the subject sites buildable area.
  - (F) The construction of a cluster housing development shall be subject to the engineering and building design standards currently in use by the City.
- (G) Approval of the single-family cluster housing development shall be predicated upon a positive finding that all of the following criteria have been met:
  - (i) The design shall promote the goals, objectives, and policies of the City's Master Plan;
  - (ii) Open space areas shall be provided in suitable locations that offer convenient access by residents and adequate screening from nearby dwelling units;
  - (iii) Individual lots, buildings, and roadways, and open space areas shall be designed to minimize the alteration of environmental site features;
  - (iv) The design of structures shall be compatible with existing single-family structures located in the general area in terms of architectural style, size, overall floor area, building height and neighboring building orientation;
  - (v) Clustering of the dwelling units shall occur in a manner which preserves the basic amenities and qualities normally associated with single-family living (such as, but not limited to, privacy, personal open space, and adequate natural lighting and ventilation) while allowing for innovative site layout and open space areas;
  - (vi) Where the proposed cluster housing development abuts an existing conventional single-family subdivision, land zoned for single-family use, or a major thoroughfare, an orderly transition shall occur using one or more the following techniques.
    - (a) Detached single-family dwellings;
    - (b) Open or recreation space;
    - (c) Sufficient change of topography;
    - (d) Buffer plantings of sufficient size, character, density and quantity; or
    - (e) Mounding or berming of sufficient size, height, and slope to ensure proper maintenance of the area.

**30-21 ESTABLISHMENT OF DISTRICTS; PROVISIONS FOR OFFICIAL ZONING MAP.**

(A) Zone Districts. The City is hereby divided into fifteen (15) zoning districts as follows:

|     |                           |
|-----|---------------------------|
| R-1 | Single Family Residential |
| R-2 | Single Family Residential |

|      |                                   |
|------|-----------------------------------|
| R-3  | Single and Two Family Residential |
| R-4  | Medium Density Residential        |
| R-5  | High Density Residential          |
| R-MH | Mobile Homes                      |
| B-1  | Neighborhood Business             |
| B-2  | General Business                  |
| B-3  | Central Business                  |
| I-1  | Light Industrial                  |
| I-2  | General Industry                  |
| I-3  | Industrial Park                   |
| I-4  | Airport Industrial Park           |
| A    | Airport                           |

- (B) Official Zoning Map. The City is divided into zones, or districts, as shown on the official zoning map entitled "The Zoning Map of the City of Three Rivers" which, together with all explanatory matter thereon, is adopted by reference and declared to be a part of this Chapter.
- If, in accordance with this Chapter, the City Charter, or Public Act 110 of 2006, as amended, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be documented and kept on file together with the date of adoption and the number of the Ordinance which caused such amendment to be made. Changes to the Official Zoning Map become effective as specified in the ordinance establishing such change regardless of entry on the Official Zoning Map.
- (C) Rules for Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of zoning districts as shown on the Official Zoning Map, the following rules shall apply:
- (1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
  - (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
  - (3) Boundaries indicated as approximately following City limits shall be construed as following such City limits;
  - (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
  - (5) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in event of change in the shore line shall be construed as moving with the actual shore line;
  - (6) Boundaries indicated as parallel to or extensions of features indicated in Subsections (1) through (5) above shall be so construed;
  - (7) Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Map;
  - (8) Where physical or cultural features existing on the ground are of variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections (1) through (7) above, the Planning Commission shall interpret the zoning district boundaries;
  - (9) Where a district boundary line divides a lot or lots which were in single ownership as of the effective date of adoption or amendment of this Zoning Ordinance, the Planning Commission may permit the extension of the district regulations for either portion of the lot(s) not to exceed fifty (50') feet beyond the district line into the remaining portion of the lot.
  - (10) Where a lot of record, as defined in Section 30-8 of this Chapter, is situated partially within the City and partially within an adjoining Township and the land in each jurisdiction is within a single family residential zoning district, the Planning Commission, upon petition of the lot owner, may allow the same uses on the lot as a whole as allowed in Single Family Residential Districts pursuant to Section 30-22 of this Chapter notwithstanding the fact that a portion of the lot is outside the jurisdiction of the City provided that the Planning Commission determines:
    - (a) That the petition has obtained the approval of the appropriate Township authorities to allow the proposed use on the lot as a whole.
    - (b) That granting the petition would not violate the purposes and standards stated in Section 30-34(A) of this Chapter.
    - (c) That all applicable provisions of this Chapter shall apply to the entire lot upon granting the petition.
- (D) Application of District Regulations. The regulations provided by this Chapter for each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land except as hereinafter provided.

- (1) No building, structure, or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with this Chapter for the zoning district in which it is located.
- (2) No building or other structure shall be erected or altered:
  - (a) To exceed the height or bulk;
  - (b) To accommodate or house a greater number of families;
  - (c) To occupy a greater percentage of lot area; or
  - (d) To have narrower or smaller rear yards, front yards, side yards, or other open spaces.
- (3) No part of a yard, or other open space, or off-street parking or loading space required in connection with any building for the purpose of complying with this Chapter shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building unless otherwise specified in this Chapter.
- (4) All property not specifically included within a zoning district, and all property which may hereafter be annexed to the City shall be considered to be in the R-1 District until otherwise classified.

### 30-22 R-1, and R-2 SINGLE FAMILY RESIDENTIAL DISTRICT.

- (A) Purpose. The purpose of the R-1 and R-2 Single Family Districts is to provide for low density single family detached residential dwelling units and directly related complementary uses.
- (B) Permitted Uses. The following are permitted uses in an R-1 or R-2 District.
  - (1) Single family detached dwellings;
  - (2) Adult Foster Care Home, Family;
  - (3) Child Day Care Home, Family;
  - (4) Public parks and playgrounds;
  - (5) Essential services.
- (C) Permitted Accessory Uses. The following are permitted accessory uses in R-1 or R-2 District:
  - (1) Private garages, parking spaces and carports for passenger cars and trucks not to exceed a gross vehicle weight rating (GVWR) of ten thousand (10,000) pounds;
  - (2) Recreational vehicles and equipment;
  - (3) Non-commercial greenhouses and gardens;
  - (4) Swimming pools, tennis courts and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use;
  - (5) Tool houses, sheds, and similar buildings for storage of domestic supplies and non-commercial recreational equipment;
  - (6) Boarding or renting of rooms to not more than one (1) person;
  - (7) Solar collector panels;
- (D) Permitted Conditional Uses. The following uses are permitted in an R-1 or R-2 District subject to site plan review as provided in Section 30-36 of this Chapter and the following additional requirements:
  - (1) Utility and public service buildings and uses when operating requirements necessitate the locating of such facilities within the district in order to serve the immediate vicinity, subject to the following conditions:
    - (a) Outdoor storage and overnight vehicular parking shall be expressly prohibited.
    - (b) The property is screened and landscaped in compliance with Section 30-16 of this Chapter.
    - (c) Yard and setback requirements may be reduced in the case of unmanned facilities such as pump stations, pump houses, and substations.
  - (2) Public or semi-public recreational buildings and neighborhood or community centers; public and private educational institutions limited to elementary, junior high and senior high schools; public places of worship; provided that:
    - (a) Required side yards shall be double that normally required for the district.

- (b) Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 30-16 of this Chapter.
  - (c) Adequate off-street parking and access are provided on the site or on the lots directly across a public street or alley to the principal use in compliance with Section 30-17 of this Chapter.
  - (d) Adequate off-street loading and service entrances are provided and regulated where applicable by Section 30-18 of this Chapter.
  - (e) Buildings of greater than the maximum height allowed in accordance with the Schedule of Regulations in Section 30-20 of this Chapter may be allowed provided front, side and rear yards are increased above the minimum required yards by one (1') foot for each foot of building height that exceeds the maximum height allowed. Buildings shall not exceed 48 feet.
  - (f) Nursery schools, day nurseries and child care centers shall provide and maintain a minimum of one hundred fifty (150) square feet of outdoor play area for each child cared for with a minimum play area of not less than five thousand (5,000) square feet.
- (3) Adult Foster Care Home, Small Group and Child Day Care Home, Group provided that:
- (a) The home is not located closer than one thousand (1,000) feet to any of the following:
    - i. A facility offering substance abuse treatment and rehabilitation services to seven or more people licensed under Article 6 of the Public Health Code, Public Act 368 of 1978.
    - ii. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
  - (b) Only the rear yard shall be used for play or recreational areas, with a minimum play area of not less than one thousand two hundred square feet (1,200) per the requirements of the Licensing Rules for Child Care Centers manual as established by the Department of Human Services with the State of Michigan, as amended, and which areas shall be fenced and controlled and screened in compliance with Sections 30-15 and 30-16 of this Chapter.
  - (c) Maintains the property consistent with the visible characteristics of the residential neighborhood.
- (4) Cemeteries which lawfully occupied land prior to the effective date of adoption or amendment of this Zoning Ordinance.
- (E) Permitted Special Exception Uses. The following special exception uses are permitted in the R-1 and R-2 District subject to review and approval in accordance with the provisions of Section 30-34 of this Chapter.
- (1) Home occupations
  - (2) Planned unit developments
  - (3) Off-site parking
  - (4) Joint parking
  - (5) Professional business, such as, but not limited to: executive and administrative offices, medical and dental offices and clinics, insurance sales, accountants, and real estate sales
  - (6) Bed & Breakfast
  - (7) On-Site Wind Energy Conversion Systems
- (F) Prohibited Uses
- (1) No existing single-family home shall be permitted to convert to multiple-family dwelling units with the R-1 and R-2 District.
  - (2) Any building that had been designated for use as a single-family residence but has been converted to a multiple-family use and has been vacant for one (1) year or more, as determined by and upon written notification from the Zoning Administrator to the property owner, shall be converted back to a single-family use upon re-occupancy.
- (G) Lot Area, Setback, and Height Requirements. All buildings and uses within the R-1 and R-2 District shall be subject to the requirements of the Schedule of Regulations in Section 30-20 of this Chapter unless otherwise specified.

**30-23 R-3 SINGLE AND TWO FAMILY RESIDENTIAL DISTRICT**

- (A) Purpose. The purpose of the R-3 Single and Two Family Residential District is to provide for low to moderate density one (1) and two (2) unit dwellings and directly related complementary uses.
- (B) Permitted Uses. The following are permitted uses in the R-3 District.
  - (1) All permitted uses in the R-1 and R-2 Districts.

- (2) Two family dwellings.
- (C) Permitted Accessory Uses. The following are permitted accessory uses in the R-3 District.
- (1) All accessory uses allowed in the R-1 and R-2 Districts.
- (D) Permitted Conditional Uses. The following conditional uses are permitted in the R-3 District subject to site plan review as provided in Section 30-36 of this Chapter.
- (1) All conditional uses, subject to the same conditions, allowed in the R, R-1 and R-2 Districts.
- (E) Permitted Special Exception Uses. The following special exception uses are permitted in the R-3 District subject to review and approval in accordance with the provisions of Section 30-34 of this Chapter.
- (1) All special exception uses allowed in the R, R-1 and R-2 Districts.
- (2) Domestic assault shelters.
- (F) Prohibited Uses
- (1) No existing single-family home shall be permitted to convert to multiple-family dwelling units within the R-3 District, other than what is allowed by this ordinance.
- (2) Any building that had been designed for use as a single-family residence but has been converted to more than a two-family dwelling and has been vacant for one (1) year or more, as determined by and upon written notification from the Zoning Administrator to the property owner, shall be converted back to a single-family use upon re-occupancy.
- (G) Lot Area, Setback and Height Requirements. All buildings and uses within the R-3 District shall be subject to the requirements of the Schedule of Regulations in Section 30-20 of this Chapter unless otherwise specified.

#### 30-24 R-4 MEDIUM DENSITY RESIDENTIAL DISTRICT.

- (A) Purpose. The purpose of the R-4 Medium Density Residential District is to provide a greater variety in housing types by allowing medium density development at an overall density ranging up to seven (7) units per acre.
- (B) Permitted Uses. The following are permitted uses in the R-4 District.
- (1) All permitted uses allowed in the R-1 through R-3 Districts.
- (2) Townhouses.
- (3) Multiple family dwellings, including conversion of existing structures.
- (4) Multiple, detached single-family dwellings (Ord. 842; 11-2-2020)
- (C) Permitted Accessory Uses. The following are permitted accessory uses in the R-4 District:
- (1) All accessory uses in the R-1 through R-3 Districts.
- (D) Permitted Conditional Uses. The following conditional uses are permitted in the R-4 District subject to site plan review as provided in Section 30-36 of this Chapter and the following additional requirements.
- (1) All conditional uses, subject to the same conditions, allowed in the R-1 through R-3 Districts.
- (2) Day care center; nursing homes; housing for the elderly; adult foster care home, large group; adult foster care congregate facility and similar group housing, provided that:
- (a) Side yards are double the minimum requirements established for the R-4 District and are screened in compliance with Section 30-16 of this Chapter.
- (b) Only the rear yard shall be used for play or recreational areas, with a minimum play area of not less than one thousand two hundred square feet (1,200) per the requirements of the Licensing *Rules for Child Care Centers* manual as established by the Department of Human Services with the State of Michigan, as amended and which areas shall be fenced and controlled and screened in compliance with Sections 30-15 and 30-16 of this Chapter.
- (c) The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.
- (d) All signing and informational or visual communication devices shall be in compliance with Section 30-19 of this Chapter.
- (e) All applicable laws, rules and regulations pertaining to such use are complied with and all required operating permits are secured.

- (f) Adequate off-street parking is provided in compliance with Section 30-17 of this Chapter.
  - (g) There shall be adequate short-term parking or drop off area provided within close proximity to the main entrance. Short-term or drop off parking shall accommodate three (3) care spaces and shall be designated as temporary in nature. The short-term parking or drop off area shall not conflict with off-street parking access and shall not conflict with pedestrian movement. The short-term parking or drop off area is an addition to off-street parking required by Section 30-17 of this Chapter.
  - (h) One (1) off-street loading space in compliance with Section 30-18 of this Chapter is provided.
- (3) Funeral Homes provided that:
- (a) Off street parking shall be provided in accordance with Chapter 30-34 (C) (4) of the City Code.
  - (b) Conformance with the character of the established neighborhood either as the conversion of an existing dwelling or in a new building designed with the appearance of a residential building.
  - (c) No portion of the principal building is nearer than thirty (30) feet to the next adjoining residentially zoned property.
  - (d) Sign requirements shall conform to residential district requirements.
  - (e) They must be located on a major street or a state highway trunk line.
- (4) Hospitals, sanitariums or similar institutions provided that:
- (a) All such hospitals shall be developed only on sites consisting of at least five acres in area.
  - (b) The minimum distance of any main or accessory building from bounding lot lines or streets shall be at least 40 feet for front, rear, and side yards for all two-story structures. For every story above two, the minimum yard distance shall be increased by at least ten feet.
  - (c) The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.
  - (d) Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence six feet in height. Ingress and egress to the ambulance and delivery areas shall be directly from an arterial or collector street.
  - (e) All signing and informational or visual communication devices shall be in compliance with Section 30-19 of this Chapter.
  - (f) Adequate off-street parking is provided in compliance with Section 30-17 of this Chapter.
  - (g) All applicable laws, rules and regulations pertaining to such use are complied with and all required operating permits are secured.
- (5) Private recreational centers provided that:
- (a) Required side yards shall be double that normally required for the district.
  - (b) Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 30-16 of this Chapter.
  - (c) Adequate off-street parking and access are provided on the site or on the lots directly across a public street or alley to the principal use in compliance with Section 30-17 of this Chapter.
  - (d) Adequate off-street loading and service entrances are provided and regulated where applicable by Section 30-18 of this Chapter.
  - (e) Buildings of greater that the maximum height allowed in accordance with the Schedule of Regulations in Section 30-20 of this Chapter provided front, side and rear yards are increased above the minimum required yards by one (1') foot for each foot of building height that exceeds the maximum height allowed. Building shall not exceed 48 feet.
- (E) Permitted Special Exception Uses. The following special exception uses are permitted in the R-4 District subject to review and approval in accordance with the provisions of Section 30-20 of this Chapter.
- (1) All special exception uses permitted in the R-1through R-3 Districts.
  - (2) Youth Correctional Home
- (F) Lot Area, Setback and Height Requirements. All buildings and uses within the R-4 District shall be subject to the requirements of the Schedule of Regulations in Section 30-20 of this Chapter unless otherwise specified.

**30-25 R-5 HIGH DENSITY RESIDENTIAL DISTRICTS.**

- (A) Purpose. The purpose of the R-5 High Density Residential District is to provide for areas in which higher density housing in multiple family structures, and directly related complementary uses may occur.
- (B) Permitted Uses. The following are permitted uses in an R-5 District:
- (1) All permitted uses allowed in the R-4 District.
- (C) Permitted Accessory Uses. The following are permitted accessory uses allowed in an R-5 District.
- (1) All accessory uses allowed in R-1 through R-4 Districts.
- (D) Permitted Conditional Uses. The following conditional uses are permitted in an R-5 District subject to site plan review as provided in Section 30-36 of this Chapter.
- (1) All conditional uses, subject to the same conditions, allowed in R-1 through R-4 Districts.
- (E) Permitted Special Exception Uses. The following special exception uses are permitted in the R-5 District subject to review and approval in accordance with the provisions of Section 30-34 of this Chapter.
- (1) All special exception uses permitted in R-1 through R-4 Districts.
- (F) Lot Area, Setback and Height Requirements. All buildings and uses shall be subject to the requirements of the Schedule of Regulations in Section 30-20 of this Chapter unless otherwise specified in this Chapter.

**30-26 R-MH MOBILE HOME DISTRICT.**

- (A) Purpose. It is the purpose of this District to provide for the construction of mobile home communities in accordance with the Mobile Home Commission Act, Public Act 96 of 1987, as amended, where the location and design standards of mobile home communities are consistent with the Master Plan and this Chapter.
- (B) Permitted Uses. The following are permitted uses in the R-MH District.
- (1) Mobile Home Parks
  - (2) Mobile Home Subdivisions
- (C) Permitted Accessory Uses. The following are permitted accessory uses allowed in a R-MH District.
- (1) Private garages, parking spaces and carports for passenger cars and trucks not to exceed a gross vehicle weight rating (GVWR) of ten thousand (10,000) pounds;
  - (2) Recreational vehicles and equipment.
  - (3) Non-commercial greenhouses and gardens.
  - (4) Tool houses, sheds, and similar buildings for storage of domestic supplies and non-commercial recreational equipment.
  - (5) Swimming pools, tennis courts, and other recreational facilities which are operated for the enjoyment and convenience of the residents of the mobile home park or subdivision.
  - (6) Solar collector panels.
- (D) Requirements for Approval. Prior to the issuance of a building permit for a mobile home community, the following requirements shall be met:
- (1) Site Plan Review. All applicants for a mobile home community building permit shall comply with Section 30-36 of this Chapter. The application shall be of sufficient detail to assure compliance with this Chapter, together with any additional information required by Public Act 96 of 1987, as amended, shall be considered to meet the requirements of that Act.
  - (2) Compliance with Site Plan. Property, which is the subject of site plan approval, and a mobile home community building permit must be developed in strict compliance with the approved site plan and any

amendments thereto which have been approved by the City.

- (E) Design Standards. The following design standards shall be used and applied to any site plan review application for a mobile home community.
- (1) Minimum Lot Requirements. The minimum lot area for a mobile home park shall be five (5) acres.
  - (2) Shall meet the Michigan Department of Labor and Economic Growth Manufactured Housing General Rules and Public Act 96 of 1987, as amended.
  - (3) Permitted Signs in Mobile Home Communities. The following permitted signs shall be allowed for each mobile home community.
    - (a) One (1) identification sign, not exceeding twelve (12) square feet in area, for each principal entrance provided that no more than two (2) such signs shall be located along any given street nor shall any two (2) such signs be located closer together than three-hundred (300') feet nor shall any such sign be located closer than fifty (50') feet from the side yard boundary of the mobile home community.
    - (b) Temporary real estate signs not exceeding six (6) square feet in area shall be permitted provided that there shall be no illumination.
    - (c) Identification nameplates not exceeding twenty (20) square feet in area identifying non-residential uses within the development shall be permitted flat against the wall of a building within the development and at the entrance of each designated parking area for such building. The total display surface of all identification nameplates for a particular building within the development shall not exceed twenty (20) square feet in area and shall not consist of more than one (1) identification nameplate per building and per parking area entrance.
    - (d) Signs of an informational, non-advertising nature such as street signs and signs concerning public or quasi-public areas shall be permitted.
  - (4) Parking Within Mobile Home Communities. In mobile home communities, residential parking shall be provided at the rate of two (2) off-street parking spaces per dwelling unit.
  - (5) Traffic Visibility. Traffic visibility within mobile home communities shall be in accordance with Section 30-16(D) of this Chapter.
  - (6) Screening and Landscaping. Screening and landscaping requirements for mobile home communities shall be in accordance with Section 30-16 of this Chapter.
  - (7) Streets. Streets that are to be dedicated to the City, if any, shall be constructed in accordance with the general subdivision regulations of the City, and such plans shall be reviewed and approved by the City Manager. Yards adjacent to public streets shall comply with Subsection (9)(a) of this Section.

### 30-27 B-1 NEIGHBORHOOD BUSINESS DISTRICT.

- (A) Purpose. The purpose of the B-1 Neighborhood Business District is to provide for low intensity retail or service outlets which deal directly with the customer for whom the goods or services are furnished. The uses allowed in this District are to provide goods and services on a limited community market scale and are to be located only in areas which are well served by collector or arterial street facilities at the edge of residential districts. Establishments in this district will generally be small in floor and site area, typically no larger than 15,000 square feet and three to five acres. All permitted and conditional uses abutting a residential district shall be screened and landscaped in accordance with Section 30-16 of this Chapter.
- (B) Permitted Uses. The following are permitted uses in a B-1 District:
- (1) Generally recognized retail businesses which supply commodities on the premises, such as but not limited to; pharmacies, dry goods, clothing, bicycle sales, camera and photographic supplies, florist shops, hardware, and gifts or novelty shops.
  - (2) Generally recognized hobby, art, craft, and school supply stores.

- (3) Generally recognized retail businesses which supply food goods such as but not limited to; groceries, meats, dairy products, baked goods, frozen foods or other foods, but not to include locker plants.
  - (4) Fruit or vegetable store but not including sales from moveable, motorized vehicles.
  - (5) Personal service establishments which perform services on the premises, such as but not limited to; repair shops (watch, radio, television, shoe, etc.), tailor shops, beauty parlors or barbershops, photographic studios, and self-service laundries and dry cleaners.
  - (6) Restaurants, or other places serving food or beverage, such as but not limited to: candy and ice cream shops, delicatessens, and general sit-down restaurants, except those having the character of a drive-in, drive-thru or outdoor eating area.
  - (7) Post office and similar governmental office buildings, serving only persons living in the adjacent residential area.
  - (8) Bank, savings and loan, credit unions and other financial institutions
  - (9) Commercial and professional offices, such as but not limited to: executive and administrative offices, medical dental offices and clinics, insurance sales, accountants, and real estate sales.
  - (10) Liquor, off-site consumption
  - (11) Locksmith
  - (12) Other uses similar to the uses listed above based on Planning Commission approval.
- (C) Permitted Accessory Uses. The following are permitted accessory uses in a B-1 District:
- (1) Off-street parking as regulated by Section 30-17 of this Chapter.
  - (2) Off-street loading as regulated by Section 30-18 of this Chapter.
  - (3) Solar collector panels;
- (D) Conditional Uses. The following conditional uses are permitted in the B-1 District subject to site plan review as provided in Section 30-36 of this Chapter and the following additional requirements.
- (1) All conditional uses, subject to the same conditions, as allowed in the R-1 through R-5 Districts.
  - (2) Residential uses provided that:
    - (a) Buildings devoted solely to residential uses shall meet the lot area, setback, and height requirements of the nearest adjoining residential district.
    - (b) Residential and non-residential uses shall not be contained on the same floor.
    - (c) Residential and non-residential uses shall have separate entrances and exists.
  - (3) Retail Gasoline and Retail Gasoline with Convenience Stores provided that:
    - (a) They are located along State highways.
    - (b) Sites shall be a minimum of 10,000 square feet and so arranged that at least two stacking spaces are available for motor vehicles which are required to wait.
    - (c) All lighting shall be shielded from adjacent residential districts and from abutting streets.
    - (d) Service and repair work of any kind on motor vehicles is strictly prohibited.
  - (4) Trade Schools provided that:
    - (a) The use for which training is rendered is permitted in the District.
  - (5) Drive-in or drive-through restaurants or restaurants with outdoor eating areas subject to the following:
    - (a) An access lane shall be provided adjacent to the drive-through lane to facilitate traffic flow.
    - (b) Where the lot abuts a residential district, a ten-foot greenstrip and a fence shall be provided in

accordance with Section 30-16.

- (c) Outdoor eating areas may be located in any yard; shall only include tables, chairs, umbrellas, canopies, awnings, fencing, and other fixtures which are uniform in design and made of quality materials and with quality workmanship; shall be maintained in a neat and orderly appearance at all times and shall be cleared of all debris on a periodic basis during the day and at the close of each business day; shall include an outdoor trash receptacle within the seating area to help ensure an orderly appearance; and, shall not include any cooking, storage, cooling, refrigeration, or other equipment located within the seating area. No food preparation shall be allowed in the outdoor eating area.
- (6) Home improvement centers provided that:
  - (a) The maximum size of an outdoor display area may not be more than ten (10) percent of the enclosed retail area.
  - (b) The display of any materials and / or products shall meet all setback requirements of a structure, shall be located immediately adjacent to the building, and be enclosed by either glass or decorative fencing material.
  - (c) Outdoor storage is prohibited.
- (E) Special Exception Uses. The following special exception uses may be allowed in the B-1 District subject to review and approval in accordance with the provisions of Section 30-34 of this Chapter.
  - (1) Joint parking
  - (2) Off-site parking
  - (3) Domestic assault shelters
  - (4) Transitory food units
  - (5) Communication towers
  - (6) Day spas or massage establishments, as defined in Section 5-7 of this Code
  - (7) Large Retail and Commercial Service Buildings -Commercial Planned Development.
  - (8) On-Site Wind Energy Conversion systems
  - (9) **Bed and Breakfast** (Ord. 826; 7-17-2018)
- (F) Lot Area, Setback and Height Requirements. All buildings and uses within the B-1 District shall be subject to the requirements of the Schedule of Regulations in Section 30-20 of this Chapter unless otherwise specified.

### 30-28 B-2 GENERAL BUSINESS DISTRICT.

- (A) Purpose. The purpose of the B-2 General Business District is to provide for the establishment of commercial and service activities which draw from and serve customers from the entire community or region and are located in areas which are well served by collector or arterial street facilities outside the Central Business District.
- (B) Permitted Uses. The following are permitted uses in a B-2 District:
  - (1) All permitted uses allowed in a B-1 District
  - (2) Retail gasoline and retail gasoline with convenience store
  - (3) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as but not limited to: foods, drugs, liquor, furniture, clothing, dry goods, gifts, antiques, pets and pet needs, auto accessories, notions or hardware.
  - (4) Eating and drinking establishments including but not limited to: restaurants, taverns, cafes, drive-thru and drive-ins.
  - (5) Amusement places (such as dance halls or roller rinks)
  - (6) Commercial recreational uses such as bowling alleys, pool or billiard parlor or club, indoor archery, indoor tennis clubs, health clubs and other similar indoor commercial recreation establishments.
  - (7) Copy service and instant offset printing service
  - (8) Department and discount stores
  - (9) Dry cleaning plants
  - (10) Electrical appliance stores including incidental repair and assembly, but not fabricating or manufacturing
  - (11) Employment agencies
  - (12) Garden supply stores, when completely enclosed
  - (13) Governmental and public utility buildings
  - (14) Private clubs or lodges
  - (15) Public utilities
  - (16) Theaters, not of the outdoor drive-in type

- (17) Travel bureaus, transportation ticket offices
- (18) Variety stores, 5 and 10 cent stores, and stores of similar nature
- (19) Other uses similar to the uses listed above based on Planning Commission approval.

(C) Permitted Accessory Uses. The following are permitted accessory uses in a B-2 District:

- (1) All permitted accessory uses allowed in a B-1 District.

(D) Conditional Uses. The following conditional uses are permitted in the B-2 district subject to site plan review as provided in Section 30-36 of this Chapter and the following additional requirements.

- (1) All conditional uses, subject to the same conditions, as allowed in the B-1 District.
- (2) Home improvement centers provided that:
  - (a) The maximum size of an outdoor display area may not be more than 20 percent of the enclosed retail area.
  - (b) The storage and/or display of any materials and/or products shall meet all setback requirements of a structure.
  - (c) Any outdoor storage and/or display of materials and/or products shall be located immediately adjacent to the building and be enclosed by either glass or decorative fencing material.
  - (d) The storage of any soil, fertilizer, or other loose, unpackaged materials shall be contained so as to prevent any effects on adjacent uses.
- (3) Trade Schools provided that:
  - (a) The use for which training is rendered is permitted in the District.
- (4) Outdoor sales pace for exclusive sale of new or used automobiles, trucks, motor homes or house trailers provided that:
  - (a) All lighting shall be shielded from adjacent residential districts.
  - (b) Ingress and egress to the outdoor sales area shall be at least 60 feet from the intersection of any two streets.
  - (c) The area of the site to be used for outdoor sales, display or storage shall not exceed seventy percent of the total site.
  - (d) No major repair or major refinishing shall be done on the lot.
  - (e) Used automotive dealers shall be:
    - i. At least one (1) acre in size and a permanent structure containing not less than seven hundred (700) square feet of interior floor space to be used as a business or sales office.
    - ii. Hard surfaced and provided parking spaces for inventory which is not less than ten (10) feet by twenty (20) feet for each used car.
    - iii. A minimums of ten (10) used cars must be kept on the lot at all times while the dealership is in business.
- (5) Hotels and motels provided that:
  - (a) It can be demonstrated that ingress and egress does not conflict with adjacent business uses.
  - (b) Each unit shall contain not less than 250 square feet of floor area.
  - (c) No unit may be used as a permanent residence.
- (6) Commercially used outdoor recreational space for children's amusement parks, miniature golf courses.
- (7) Automobile carwash provided that:
  - (a) All buildings shall have a font yard setback of not less than 50 feet.
  - (b) Vacuuming and drying areas may be located outside the building but shall not be in the front yard and shall not be closer than 25 feet from any residential district.

- (c) All cars required to wait for access to the facilities shall be provided with stacking space off the street right-of-way and shall only be located within the side and rear yards. Two vehicle stacking spaces shall be provided for each wash stall. Each vehicle stacking space shall be eight feet wide by eighteen feet long, and all vehicle stacking spaces shall be located so as not to encumber traffic circulation within the site.
  - (d) Ingress and egress points shall be located at least 60 feet from the intersection of any two streets.
  - (e) All parking and waiting areas shall be hard surfaced and dust free.
  - (f) All lighting shall be shielded and directed away from adjacent residential districts.
  - (g) Provision, which must be approved by the Zoning Administrator or his/her designee, shall be made by the applicant for the collection and disposal of wash water run-off from motor vehicles between the front of the car wash building and the exit driveway so as to prevent icing on the approach and the apron.
- (8) Automotive repair - minor such as muffler shops, shock absorber replacement shops, brake shops, lube shops, tire stores, undercoating shops, provided that:
- (a) Access to such use shall be directed to a major or collector street.
  - (b) Access to and from such use shall not be cause for traffic to utilize residential streets.
  - (c) Outdoor storage of parts or materials shall be prohibited unless stored in proper containers or in a completely enclosed building but excluding prefabricated storage sheds. There shall be no outside parking and/or storage of any partially dismantled or inoperative vehicles.
  - (d) Areas for required off-street parking required for customers' use shall not be utilized for parking of vehicles awaiting repair or service.
  - (e) All vehicle servicing or repair shall be conducted within a building.
  - (f) Suitable containers shall be provided and utilized for the disposal of used parts, and such containers shall be screened from public view.
- (9) Small engine repair and equipment repair such as lawn mower repair and servicing, subject to the following conditions:
- (a) Access to such use shall be directly to a major or collector street.
  - (b) Access to and from such use shall not be cause for traffic to utilize residential streets.
  - (c) Outdoor storage of parts or materials shall be prohibited unless such storage is within a fenced and obscured area which meets all setback requirements.
  - (d) Areas for required off-street parking required for customer use shall not be utilized for the storage of equipment awaiting repair.
  - (e) All vehicle servicing or repair shall be conducted within a building.
  - (f) Suitable containers shall be provided and utilized for the disposal of used parts and such containers shall be screened from public view.
- (10) Veterinary Hospitals or Clinics provided that:
- (a) All activities are conducted within a totally enclosed building.
  - (b) That the building be climate controlled.
  - (c) That all buildings control noise levels through the installation of soundproofing treatments like acoustic sound panels, ceiling tiles, and VET baffles that are designed to absorb animal noise within the hospital or clinic.
  - (d) That boarding of animals may only be an accessory use to the main use of a hospital or clinic.
- (11) Transient Merchants
- (12) Tattoo Studio
- (13) Open Air Businesses: Outdoor sales place for (exclusive) sale of premade sheds and play structures, hunting blinds and other recreational structures, nursery and landscape supplies, tractors and other

agricultural equipment, snowmobiles/ATVs and other durable, off-road (commercial) recreational equipment, provided that...

- (a) All Open-Air businesses are at least one (1) acre in size and a permanent structure containing not less than five hundred (500) square feet of interior floor space to be used as a business or sales office.
- (b) Minimum lot area (e.g., one acre)
- (c) All lighting shall be shielded from adjacent residential districts.
- (d) Ingress and egress to the outdoor sales area shall be at least 60 feet from the intersection of any two streets.
- (e) The area of the site to be used for outdoor sales, display or storage shall not exceed seventy percent (70%) of the total site.
- (f) No major repair or major refinishing shall be done on the lot.
- (g) Aesthetics; the site shall be kept in a neat and orderly fashion. A landscape plan shall be submitted to the Planning Commission for review and will identifying the display area for products and/or equipment for sale, as well as the location of off-street parking and loading, the business or sales office, and accessory building. The plan will also detail the location and use of berms, fences or plantings (screening) along the sides and rear of the open-air area to control access for safety and security, prevent the blowing of trash or debris if relevant, and to establish an aesthetical perimeter.
- (h) All open-air businesses shall meet safety requirements and other related provisions pertaining to the protection and security of sale items including, but not limited to, securing all items (to ground and/or building) and adequate protections from weather all seasons, subject to safety inspection.
- (i) All flammable liquids, solvents, cleaners, and other hazardous substances capable of soil or surface water contamination shall be stored within an accessory building (or the building used as a business or sales office), and secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground.
- (j) No more than one (1) accessory building for storage of business related items on site; (i)
- (k) No public address system used shall be audible from any abutting parcel.
- (l) Off-street loading and parking shall be provided pursuant to the current City code requirements.
- (m) Required parking spaces shall not be used for storage, and display, or sale of merchandise.
- (n) The Planning Commission may recommend additional requirements.
- (o) Specific, sale-type provisions:
  - i. Businesses adjacent to residential district are subject to screening requirements
  - iii. Nursery / landscape supply sales: storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect on adjacent properties, waterbodies, wetlands and drainageways
  - iv. Storage yards associated with nurseries, landscape supply sales and home & garden centers shall be completely obscured from view from public streets

(Ord. 821; 3-13-2018)

(14) Mobile Vending Courts, provided that:

- (a) Density and maximum number, for each parcel (or multiple contiguous parcels being used as a mobile vending court):
  - i. MVUs shall be limited in number to two (2) units for every two thousand square feet (2,000 sq ft.) of property.
  - ii. The total number of units shall be limited to a maximum of ten (10), and in reviewing this number (and overall density of units on the property) consideration will be made for whether the proposed total or increased number of units would be compatible with the existing use and permitted development of properties adjacent to, including across the street from, the

court.

iii. More than ten (10) MVUs may be appealed to the City Commission on the total proposed number of units.

(b) Parking

i. Required off-street parking shall be a minimum of one (1) space for each MVU, and this provision may not supersede other parking requirements listed elsewhere in the City Code; e.g., Sect. 30-17.

(c) Utilities

i. A source of electricity for each mobile vending unit.

ii. The court may also provide (optionally) a separate building for vendor access (only) for water, food preparation and storage. Commissary buildings shall be licensed by county health (separately) and are subject to site plan review provisions in Sect. 30-36.

iii. If provided, customer amenities (restrooms) will be connected to city water and sewer. The need for such customer amenities will be evaluated as part of the Conditional Use review process.

(d) Additional provisions and considerations:

i. Each mobile vending unit shall maintain a current city license (per Ch. 5) and current Health Inspection Certificate for food and beverage sales (i.e., when applicable), as well as comply with all other regulations of this chapter and city licensing provisions.

ii. Each vendor unit shall be placed on a hard surface (asphalt or concrete) or, *at a minimum*, compacted gravel.

iii. No advertising, signage, accessory structures or other temporary structures directly or indirectly associated with the mobile vending court shall impede pedestrian or motor vehicle traffic flow, nor obscure or obstruct traffic signals or regulatory signs.

iv. No vendor unit shall operate on any public street, sidewalk, right-of-way, or other public space (as defined in Chapter 5 of this Code).

v. All applicable permits, licenses and certificates shall be maintained by each vending unit at all times and (if not clearly displayed) be made available upon request by city personnel.

vi. Any other issues considered relevant by the Zoning Administrator; potential issues or concerns may be referred to the Planning Commission (as is the case for all Conditional Use reviews).

(Ord. 850; 7-6-2021)

(E) Special Exception Uses. The following special exception uses may be allowed in the B-2 District subject to review and approval in accordance with the provisions of Section 30-34 of this Chapter.

- (1) All special exception uses allowed in B-1 Districts.
- (2) Light industrial uses.
- (3) Parolee Group Homes (Ord. 827; 2-5-2019)

(F) Lot Area, Setback and Height Requirements. All buildings and uses within the B-2 General Business District shall be subject to the requirements of the Schedule of Regulations in Section 30-20 of this Chapter unless otherwise specified.

### 30-29 B-3 CENTRAL BUSINESS DISTRICT.

(A) Purpose. The purpose of the B-3 Central Business District is to provide for the establishment of commercial and service activities which draw from and serve customers from the entire community or region within an area designated as the Central Business District. Further, the B-3 district is designed and intended to promote the development of a pedestrian accessible, commercial service district in which a variety of retail, commercial, office, entertaining, civic and residential uses are permitted in a "downtown" mixed-use setting. Each use shall be complementary to the stated function and purpose of the District and shall not have adverse impact upon adjacent street capacity and safety, utilities, and other City services.

- (B) Permitted Uses. The following are permitted uses in a B-3 District.
- (1) All permitted uses allowed in a B-1 and B-2 District except those that are prohibited herein.
  - (2) Other uses similar to the uses listed in the B-1 and B-2 Districts based on Planning Commission approval.
- (C) Prohibited Uses. The following uses are prohibited in a B-3 District.
- (1) Car wash
  - (2) Drive-in or drive-thru restaurants
  - (3) Gas station
  - (4) Hotels and Motels
  - (5) Motor vehicle sales
  - (6) Automotive repair – major and minor
  - (7) Small engine repair
  - (8) Outdoor sales businesses, except temporary sidewalk sales or special events
  - (9) Dry cleaning plants
  - (10) Public or private storage of good and materials that are stored on the ground floor of a building and are not directly related to a business operation within the same building that maintains generally accepted hours of operation (10 AM to 6 PM) Tuesday through Saturday, or similar thereto and excepting locally observed holidays. (Ord. 844; 12-15-2020)
- (D) Permitted Accessory Uses. The following are permitted accessory uses in a B-3 District.
- (1) All permitted accessory uses allowed in a B-1 and B-2 Districts.
- (E) Conditional Uses. The following conditional uses are permitted in the B-3 District subject to site plan review as provided in Section 30-36 of this Chapter and the following additional requirements.
- (1) All conditional uses, subject to the same conditions, as allowed in the B-2 District.
  - (2) Residential uses provided that:
    - (a) Buildings devoted solely to residential uses shall meet the lot area, setback, and height requirements of the nearest adjoining residential district.
    - (b) Residential and non-residential uses shall not be contained on the same floor.
    - (c) Residential and non-residential uses shall have separate entrances and exits.
  - (2) Trade Schools provided that:
    - (a) The use for which training is rendered is permitted in the district.
- (F) Special Exception Uses. The following special exception uses may be allowed in the B-3 District subject to the review and approval in accordance with Section 30-34 of this Chapter.
- (1) All Special Exception Uses allowed in the B-2 District
  - (2) Public Places of Worship
  - (3) Motor Vehicle Sales Inside Buildings
  - (4) On-site Wind Energy Conversion Systems
  - (5) Transitory Food Units
  - (6) Donation Boxes
  - (7) Bed and Breakfast (Ord. 826; 8-7-2018)
- (G) Lot Area, Setback and Height Requirements. All buildings and uses within the B-3 Central Business District shall be subject to the requirements of the Schedule of Regulations in Section 30-20 of this Chapter unless otherwise specified.

- (A) Purpose. The purpose of the I-1 Light Industrial District is to provide for the establishment of wholesale and retail trade of large volume, bulk commercial storage and ware housing, and light industrial development. The overall character of the I-1 Light Industrial District is intended to be transitional in nature, thus industrial uses allowed in this District shall be limited to those which can comparably exist adjacent to commercial and lower intensity uses.
- (B) Permitted Uses. The following are permitted uses in an I-1 District:
- (1) Assembly manufacturing, fabricating or processing of the following:
    - (a) Apparel
    - (b) Baker goods for sale or use off the premises
    - (c) Batteries
    - (d) Bed springs and mattresses
    - (e) Belting and chain conveyors
    - (f) Bicycles and toys
    - (g) Cabinets
    - (h) Cameras and photographic supplies
    - (i) Canvas and canvas goods
    - (j) Ceramic products
    - (k) Cork products
    - (l) Electrical motors, generators, transformers, and controls
    - (m) Electrical and electronic products
    - (n) Felt products
    - (o) Jewelry
    - (p) Medical equipment
    - (q) Musical instruments
    - (r) Packaging
    - (s) Products made of glass, cellophane, leather, plastic, wood or paper
    - (t) Sporting equipment
    - (u) Televisions, radios and appliances
    - (v) Tobacco products
  - (2) Automobile major repair
  - (3) Building materials sales
  - (4) Cartage and express facilities
  - (5) Cartography, blueprints and reproduction services
  - (6) Commercial printing and engraving
  - (7) Creamery, dairy plants and ice cream plants
  - (8) Dry cleaning plant
  - (9) Electrical service shops
  - (10) Equipment storage - interior
  - (11) Government and public utility buildings
  - (12) Machine shop
  - (13) Medical, dental and optical laboratories
  - (14) Radio and television stations
  - (15) Recreation facilities, completely enclosed
  - (16) Research laboratories and facilities
  - (17) Trade schools
  - (18) Warehouses and mini-storage, not for lease to the public
  - (19) Wholesale business
  - (20) Other uses similar to the uses listed above based on Planning Commission approval.
- (C) Permitted Accessory Uses. The following are permitted accessory uses in an I-1 District.

- (1) Off-street parking as regulated by Section 30-17 of this Chapter.
  - (2) Off-street loading as regulated by Section 30-18 of this Chapter.
  - (3) Buildings and structures for a use accessory to the principal use, but limited to thirty (30%) percent of the gross floor space of the principal use.
  - (4) Solar collector panels;
- (D) Conditional Uses. The following conditional uses are permitted in the I-1 District subject to site plan review as provided in Section 30-36 of this Chapter and the following additional requirements.
- (1) Mini-warehouses and storage buildings for lease to the public including the dwelling and office of a caretaker provided that:
    - (a) Buildings shall be spaced not less than 30 feet apart on those sides having entrance doors.
    - (b) The outdoor storage of recreation equipment accessory to mini-warehouses or storage buildings may be permitted provided such storage area is enclosed with a security fence not less than six feet high.
    - (c) Landscape or obscuring fence materials shall screen the outdoor storage area to a height of six feet on those sides visible from public streets or any residential area. Obscuring materials in fences shall not include plastic strips.
  - (2) Any use requiring outdoor sales or storage, for example boat, farm, and heavy equipment sales, provided that:
    - (a) Landscape or obscuring fence materials shall screen the outdoor sales or storage area to a height of six feet on those sides visible from any residential area.
    - (d) All lighting shall be shielded from adjacent residential districts.
    - (e) Ingress and egress to the outdoor sales area shall be at least 60 feet from the intersection of any two streets.
    - (f) The area of the site to be used for outdoor sales, display or storage shall not exceed seventy percent of the total site.
    - (g) No major repair or major refinishing shall be done on the lot.
  - (3) Commercial kennels, provided that:
    - (a) Animals are to be housed in an enclosed building from 7:00 p.m. until 8:00 a.m. of the next day.
    - (b) No kennel shall abut or be adjacent to a residential district.
  - (4) Golf driving ranges, provided that:
    - (a) When not completely enclosed, a barrier of netting shall be provided that will not allow the passage of the golf ball through it and to a height of 25 feet along the sides and rear of the property. The netting shall be maintained in a good state of repair and replaced when needed.
    - (b) When not completely enclosed, the range shall be located within the rear yard and shall be setback a minimum of 100 feet from any adjacent residential uses.
    - (c) Hours of operation will be restricted from 7:00 a.m. to 10:00 p.m. during weekdays and from 7:00 a.m. to 11:00 p.m. on weekends when located within 100 feet of a residential district.
    - (d) Exterior lighting shall be restricted to the boundaries of the property.
- (E) Special Exception Uses. The following special exception uses may be allowed in the I-1 District, **subject to review and approval**, in accordance with Section 30-34 of this Chapter.
- (1) Off-site parking.
  - (2) Contractors' Offices, Shops and Yards for plumbing, heating, glazing, painting, paper hanging, roofing, ventilating, air-conditioning, masonry, electrical and refrigeration.
  - (3) Communication Towers
  - (4) On-Site Wind Energy Conversion Systems
  - (5) Sexually Oriented Businesses, **as defined in Section 5-8 of this Code.**
  - (6) **Solar Farms (Ord. 825; 7-3-2018)**

- (F) Lot Area, Setback and Height Requirements. All buildings and uses within the I-1 District shall be subject to the requirements of the Schedule of Regulations in Section 30-20 of this Chapter unless otherwise specified.

### 30-31 I-2 GENERAL INDUSTRY DISTRICT.

- (A) Purpose. The purpose of the I-2 General Industry District is to provide for the establishment of heavy industrial and manufacturing development and use which because of the nature of the product or character of activity requires isolation from residential or commercial uses.
- (B) Permitted Uses. The following are permitted uses in an I-2 District:
- (1) All permitted uses allowed in an I-1 District.
  - (2) The manufacturing, compounding, assembly, packaging, treatment, or storage of products and materials.
  - (3) Processing of building stone, marble, or granite products not including extraction or quarrying.
- (C) Permitted Accessory Uses. The following are permitted accessory uses in an I-2 District.
- (1) All accessory uses allowed in an I-1 District.
- (D) Conditional Uses. The following conditional uses are permitted in the I-2 District subject to site plan review as provided in Section 30-36 of this Chapter and the following requirements:
- (1) All conditional uses, subject to the same conditions, as allowed in an I-1 District.
- (E) Special Exception Uses. The following special exception uses may be allowed in the I-2 District, **subject to review and approval**, in accordance with Section 30-34 of this Chapter:
- (1) Off-site parking
  - (2) Recycling facility
  - (3) Vehicle Impound Yards
  - (4) Communication Towers
  - (5) On-Site Wind Energy Conversion Systems
  - (6) **Solar Farms (Ord. 825; 7-3-2018)**

- (F) Lot Area, Setback and Height Requirements. All buildings and uses within the I-2 General Industry District shall be subject to the requirements of the Schedule of Regulations in Section 30-20 of this Chapter unless otherwise specified.

### 30-32 I-3 INDUSTRIAL PARK DISTRICT

- (A) Purpose. The purpose of the I-3 Industrial Park District is to provide for the establishment of heavy industrial and manufacturing development within the defined boundary of an industrial park.
- (B) Conditions. Because a park-like setting is desired, certain restrictions are declared to insure the proper use, appropriate development and improvement of each building site in an I-3 District. The objective is to protect the owners of building sites in the District against improper use of surrounding sites as would depreciate the value of their property; to guard against the erection of structures of improper or unsuitable materials; to encourage the erection of attractive improvements with appropriate locations on the building site; to prevent haphazard and inharmonious improvement of building sites; to insure and maintain proper setbacks from streets and adequate open spaces between structures; and in general to provide for high quality improvements on all lots within park boundaries.
- (C) Permitted Uses. Except as may be contained in the following list of prohibited uses, any use which constitutes the manufacturing, processing, fabrication, or assembly of goods and is a Permitted Use or Permitted Accessory Use allowed within an I-1 Light Industrial District, or an I-2 General Industry District may be permitted upon any building site within an I-3 Industrial Park District.
- (1) Prohibited Uses. The following uses are specifically prohibited in an I-3 Industrial Park District.
- (a) Dwellings except for watchmen's or caretaker's quarters.
  - (b) Salvage yards and scrap processing
  - (c) Cement, asphalt, lime, gypsum, or plaster of Paris manufacture.
  - (d) Distillation of bones, fat rendering, glue manufacture, garbage, offal, or dead animal reduction or dumping.

- (e) Stockyards or slaughter of animals.
  - (f) Manufacture or storage of unreasonably dangerous materials;
  - (g) Soil, sand or gravel extraction or quarrying;
  - (h) Mini-storage warehouses; and
  - (i) Any other use which, as determined by the Zoning Administrator, would adversely affect the conditions as stated in Section 30-32(B).
- (2) Nuisance Prohibited. No Building Site shall be used for any purpose, which would unreasonably, or detrimentally impact neighboring properties within the Park.
- (3) No Outdoor Manufacturing. All permitted manufacturing and processing activities and uses in the Park shall be carried out in wholly enclosed buildings.
- (4) Outdoor Storage. The outdoor storage of equipment, raw materials, semi-finished or finished products may be permitted only when such outdoor storage is necessary and incidental to permitted uses conducted on the Building Site. All storage shall be shielded by an obscuring barrier of a height that is at least one foot above the height of the stored and subject to the standards outlined in Sub-Section (G), entitled "Improvement Standards".
- (D) Permitted Accessory Uses.
- (1) All accessory uses allowed in the I-1 and I-2 Districts.
  - (2) Public utility structures.
  - (3) Recreational Facilities, day care centers, and other activities, which provide direct support and are on the same building site to a permitted primary manufacturing use.
- (E) Conditional Uses. Reserved.
- (F) Performance Standards.
- (1) Vibration, Shock, Noise, Heat, Glare or Other Disturbances. Unreasonable vibration, shock, noise, heat, glare, and other disturbances shall not be permitted.
  - (2) Air Pollution. All processes that produce smoke, gas, dust, odor, fumes, aerosols, particulates, products of combustion, or any other atmosphere pollutant shall be conducted within a completely enclosed building. The release of pollutants to the atmosphere shall not exceed the current or future standards established by State or Federal controlling agencies.
  - (3) Dust Control. All ground areas not covered by structures shall be landscaped or surfaced with concrete, bituminous asphalt, or other comparable hard surface. Ground surfaces shall be properly drained and maintained in good condition free of weeds, dust, trash, and other debris.
  - (4) Wastes. All non-hazardous solid material, debris, refuse, or garbage, shall be kept within a completely enclosed building or in screened, properly enclosed containers designated for that purpose. All liquid wastes containing any organic or toxic matter will be disposed of in a manner prescribed by the City of Three Rivers, the St. Joseph County Health Department, and/or State controlling agency. All hazardous waste materials will be stored and disposed of in a manner consistent with all local, state, and federal laws.
  - (5) Miscellaneous. Activities that impose an adverse effect to health and safety of persons within the Park or on the property and improvements within the Park shall not be permitted.
- (G) Improvement Standards.
- (1) Front Yard Area. The minimum front yard building setback on any lot shall be 100 feet from the street right-of-way line. The Development Committee and the Property Owner shall jointly determine which street side frontage shall be the front yard on a corner lot. The other street side frontage shall be considered a side yard.
  - (2) Side and Rear Yard Area. The minimum building setback from any side or rear property line shall be 35 feet, or a distance that is equal to the height of the building whichever is the greater distance. Side or rear property lines adjacent to a dedicated wetland area shall require only 10 feet setback from the property line.
  - (3) Greenstrips. Each lot shall be provided with a greenstrip within each front, side and rear yard area. Front yard greenstrips shall begin at the right of way line and shall be a minimum of 30 feet in depth. Side and rear yard greenstrips shall begin at the property line and shall be a minimum of 15 feet in depth. Greenstrips shall be landscaped and maintained in accordance with the guidelines contained in this Section. Greenstrips may only be utilized or interrupted for access, pedestrian ways, landscaping and signs relating

to building identification, public safety, and traffic control.

- (4) Off-street Parking. Each lot shall maintain off-street parking facilities in accordance with the standards of the Off-street Parking Requirements of the Zoning Ordinance. Parking may be located any place on the building site exclusive of required greenstrips. Where parking is established between a building and the required front yard greenstrip, it shall be screened by a living hedge or a combination of planting and earth berming not less than 5 feet in height. Front yard parking shall be limited to office employees and visitors.
- (5) Loading Spaces. The provision of off-street loading space shall conform to all the requirements of the Zoning Ordinance except that they shall be located on those sides of a building, which do not front on a street. In the case of buildings located on corner lots, the Zoning Administrator may approve loading spaces on the side of the building adjacent to the street if the loading spaces are landscaped and/or fenced in a manner so as to interrupt the view of the area.
- (6) Signs. The provision of on-premise signs for each building site shall be in conformance with the requirements of the Zoning Ordinance except that billboard signs and pylon signs are not permitted in the Park.
- (7) Utilities Services. All electrical and telephone connections and installations of wires to buildings shall be made underground from the nearest available power source. No transformer, electric, gas, or other meter of any type or other apparatus shall be located on any power pole. All utility infrastructure shall be adequately screened.
- (8) Building Construction. All buildings shall be of masonry, precast concrete, or factory finished metal construction. All office facades facing a street shall be constructed of brick, stone, fluted block, glass or similar decorative material. Wood may be utilized for decorative and non-structural porticos, canopies, and other attachments. All metal buildings shall be constructed to the minimum requirements established by the Metal Building Manufacturers Association and all buildings shall be adequately protected on the interior and exterior from damage by vehicles and operations.
- (9) Landscaping. The entire building site not devoted to floor area, parking, outdoor storage, access ways, pedestrian ways, woodland or wetlands shall be landscaped with grass, canopy and coniferous trees, shrubs or other forms of low growing natural ground cover. Areas set aside for expansion shall be placed in grass and kept weed free. Any areas that become disturbed for any reason shall be restored as soon as practical. In approving a landscape plan, the following guidelines will apply:
  - (a) Landscaping shall be installed within 9 months of completion of the building or structure.
  - (b) Landscaping shall be hardy plant materials and maintained in a neat and orderly manner. Withered and/or dead plant materials shall be replaced within a reasonable period of time but no longer than one growing season.
  - (c) Underground sprinkling systems shall be encouraged on private property where necessary to service landscaped areas and such areas shall be neatly maintained, including mowing, fertilizing and pruning.
  - (d) Parking and loading areas shall be landscaped and/or fenced in such a manner as to interrupt the view of these areas.
  - (e) Corner lots are encouraged to provide appropriate landscaping and the appropriate landscaping shall be encouraged for both street frontages.
  - (f) The extensive use of cobblestones, crushed stones, or other non-living material as a ground cover is discouraged.
  - (g) Where appropriate, the use of earthen berms is encouraged. Plantings should be grouped or clustered to provide the maximum visual effect.
  - (h) Adjoining property owners are urged to landscape adjacent side and rear yard greenstrips in a complimentary fashion.
  - (i) Landscape features installed should be designed and situated (a) to break the monotony of large expanses of parking area, (b) to protect lighting fixtures and fire hydrants and (c) to define access and circulation ways.
- (10) Fences. Fences and walls in front yards shall not exceed 1 ½ feet in height and shall be constructed of vinyl or masonry. Security fences not exceeding 8 feet in height may be constructed on the common property line abutting a side or rear yard or in any other location except a front yard. Fences adjacent to and within 50 feet of a street shall be landscaped with shrubs and vines.

**(H) Special Exception Uses.**

(1) All Special exception uses allowed in I-1 Light Industry District; **Ord. 825; 7-3-2018**

### 30-32A I-4 AIRPORT INDUSTRIAL PARK DISTRICT

- (A) Purpose. The purpose of the I-4 Industrial Park District is to provide for the establishment of an industrial park dedicated to the manufacturing of aeronautical products and goods or other uses which would utilize the facilities at the Three Rivers Airport Industrial Park ("AIP") for shipment and/or transportation within the defined boundary of the AIP.
- (B) Conditions. To preserve a park-like setting, certain restrictions are declared to insure the proper use, appropriate development and improvement of each building site in an I-4 District. The objective is to protect the Owner and/or occupant of each building site against such improper use of surrounding building sites so as to protect property values; to guard against the erection of structures of improper or unsuitable materials; to encourage the erection of attractive buildings and improvements within the AIP; to prevent haphazard and inharmonious improvements of building sites; to insure and maintain property setbacks from streets with adequate open spaces between structures; and in general to provide for high quality improvements within the AIP.
- (C) Permitted Uses. The following are permitted uses in an I-4 District
- (1) All permitted uses allowed in an I-2 District, subject to Planning Commission review and Airport Industrial Park Covenants. (Ord. 843; 12-1-2020)
- (D) Prohibited Uses. The following uses are specifically prohibited in an I-4 Airport Industrial Park District.
- (a) Dwellings except for watchmen's or caretaker's quarters;
  - (b) Salvage yards and scrap processing;
  - (c) Cement, asphalt, lime, gypsum, or plaster of Paris manufacture;
  - (d) Manufacture or storage of unreasonably dangerous materials; or any activity that would be a potential fire hazard to surrounding property (excluding aviation fuel as stated in Section 4.2E);
  - (e) Mini-storage warehouses;
  - (f) The keeping of animals or livestock; and
  - (g) Any other use which, as determined by the Zoning Administrator to be objectionable by reason of emission of odor, dust smoke, gas vibration or noise which may impose a hazard to health or property.
- (1) Nuisance Prohibited. No building site shall be used for any purpose which would transmit excessive noise; smoke and particulate emissions matter; emission of toxic, noxious or odorous matter; glare; heat emission; accumulation of refuse or trash; electronic or radio interference.
- (2) No Outdoor Manufacturing. All permitted manufacturing and processing activities and uses in the AIP shall be carried out in wholly-enclosed buildings.
- (3) Prohibition of Aerials and Towers. No aerial or tower shall be erected without the express written permission of the airport management.
- (D) Outdoor Storage. No storage shall be allowed forward of the rear half of the building on the non-street side and all such storage areas shall be fenced and effectively screened, by a solid, uniformly finished wall or fence with solid entrance and exit gates with minimum height of five (5) feet but not higher than eight (8) feet. All stored materials shall be below the top elevation of the fence or wall. No storage of equipment, raw materials, semi-finished or finished products may be permitted only when such outdoor storage is necessary and incidental to permitted uses conducted on the building site. The type of screening shall be approved by the Development Committee of the Three Rivers Industrial Development Authority and subject to the standards outlined in Section 4.3 entitled "Improvement Standards".
- (E) Permitted Accessory Uses. Reserved
- (F) Conditional & Special Exception Uses. The following conditional uses and special exception uses are permitted in the I-4 District subject to site plan review as provided in Section 30-36 of this Chapter and the following requirements:
- (1) All conditional uses, subject to the same review standards and conditions, as allowed in an I-2 District.
  - (2) All special exception uses allowed in the I-2 District, subject to review and approval in accordance with the provisions of Section 30-34 of this Chapter.

Ord. 843 (12-1-2020)

(G) Performance Standards.

- (1) Disturbances. Unreasonable vibration, shock, noise, heat, glare, and other disturbances shall not be permitted.
- (2) Air Pollution. All processes that produce smoke, gas, dust, odor, fumes, aerosols, particulates, products of combustion, or any other atmosphere pollutant shall be conducted within a completely enclosed building. The release of pollutants to the atmosphere shall not exceed the current or future standards established by State or Federal controlling agencies.
- (3) Dust Control. All ground areas not covered by structures shall be landscaped or surfaced with concrete, bituminous asphalt, or other comparable hard surface. Ground surfaces shall be properly drained and maintained in good condition free of weeds, dust, trash, and other debris.
- (4) Wastes. All non-hazardous solid material, debris, refuse, or garbage, shall be kept within a completely enclosed building or in screened, properly enclosed containers designated for that purpose. All liquid wastes containing any organic or toxic matter will be disposed of in a manner prescribed by the City, the St. Joseph County Health Department, and/or State or Federal controlling agency. All hazardous waste materials will be stored and disposed of in a manner consistent with all local, state, and federal laws.
- (5) Fuel. Above ground storage tanks for gasoline or aviation fuel in State approved containers, with secondary containment, for personal use is permitted. No public sales are allowed.

(H) Improvement Standards.

- (1) Building Coverage. The total of all buildings on the lot shall not cover an aggregate area of more than 60 percent of the building site.
- (2) Front Yard Area. The minimum front yard building setback on any lot shall be thirty (30) feet from the street right-of-way line. The Development Committee and the Lessee shall jointly determine which street side frontage shall be the front yard on a corner lot. The side yard on a corner lot shall also be a thirty (30) foot setback.
- (3) Side Yard Area. The minimum building setback from any side property line shall be ten (10) feet from the building to the side property line or a distance that is equal to the height of the building whichever is the greater distance.
- (4) Rear Yard Area. The minimum building setback from any rear property line shall be thirty (30) feet from the building line to each rear property line.
- (5) Height Restrictions. No structure is permitted that would be an obstruction to air navigation as defined in Part 77 of the Federal Aviation regulations.
- (6) Greenstrips. Each lot shall be provided with a greenstrip within each front, side and rear yard area. Front yard greenstrips shall begin at the right of way line and shall be a minimum of thirty (30) feet in depth. Side and rear yard greenstrips shall begin at the property line and shall be a minimum of ten (10) feet in depth. Greenstrips shall be landscaped and maintained in accordance with the guidelines contained in this Section. Greenstrips may only be utilized or interrupted for access, pedestrian ways, landscaping and signs relating to building identification, public safety, and traffic control.
- (7) Taxiways and Taxiway ROW Areas. The area between the building lines and the site's property lines as well as unpaved and adjoining taxiways and/or taxiway right-of-way areas shall be used exclusively for lawns and other ground cover of as approved material except for such portions thereof as may be reasonably required for fenced outside storage areas, or for aircraft ramps and/or aircraft loading areas constructed on the site. Taxiways means all taxiways within the AIP. Taxiway right-of-way means dedicated aircraft right-of-way which is established on the Airport Layout Plan (ALP) as dedicated right-of-way and registered with the St. Joseph County Register of Deeds.
- (8) Loading Spaces. The provision of off-street loading space shall conform to all the requirements of the Zoning Ordinance except that they shall be located on those sides of a building, which do not front on a street. In the case of buildings located on corner lots, loading spaces on the side of the building adjacent to the street may approved by the Zoning Administrator if the loading spaces are landscaped and/or fenced in a manner so as to interrupt the view of the area.
- (9) Utilities Services. All electrical and telephone connections and installations of wires to buildings shall be made underground from the nearest available power source. No transformer, electric, gas, or other meter of any type or other apparatus shall be located on any power pole. All utility infrastructure shall be adequately screened.

- (10) Fences. Fences not exceeding eight (8) feet in height may be constructed on the common property line abutting a side or rear yard or in any other location except a front yard. No fences will be constructed in front yards. Fences adjacent to and with fifty (50) feet of a street shall be landscaped with shrubs and vines. Security fencing may be permitted with the Development Committee review and approval. All approved outdoor storage shall be fenced and effectively screened by a solid uniformly finished wall or fence with solid entrance and exit gates with minimum height of five (5) feet but not higher than eight (8) feet. The type of screening and/or fencing must be of durable material and shall be approved by the Development Committee of the Three Rivers Industrial Development Authority.
- (I) Wetlands. A portion of the AIP consists of natural wetlands as identified on the AIP Wetland Map. All wetlands within the AIP shall remain in their existing natural condition. Each deed, lease, license or permit of an AIP Lot which includes any portion of the land identified as a wetland on the Wetland Map, shall contain specific provisions prohibiting the purchaser, lessee, or permittee of the Lot from altering any part of the wetland or any area within twenty-five (25) feet of the wetland (the "buffer zone") in any way.

### 30-32B A - AIRPORT DISTRICT

- (A) Purpose. The purpose of the Airport District is to recognize and protect the areas devoted to public use aviation. It is also intended to provide areas for those activities supporting or dependent upon aircraft or air transportation immediately adjacent to primary flight operations and passenger or cargo service facilities.
- (B) Permitted Uses. The following uses are permitted uses in the A - Airport District:
- (a) Aviation Clubs
  - (b) Air pilot training schools
  - (c) Aircraft and parts sales
  - (d) Air cargo warehousing and distribution facilities
  - (e) Helicopter pads
  - (f) Repair, service and storage of aircraft
  - (g) Uses consistent with airport operation such as runways, hangars, fuel storage facilities, control towers et cetera
  - (h) Outdoor public entertainments, amusements and assemblies
- (C) Conditional Uses. Reserved
- (D) Special Exception Uses. The following special exception uses may be allowed in the A District subject to review and approval in accordance with Section 30-34 of this Chapter.
- (a) Permitted camping
  - (b) Restaurant
- (E) Landscaping. In accordance with [Section 30-16](#).
- (F) Signs. In accordance with [Section 30-19](#)
- (G) Lot Area, Setback and Height Requirements. All buildings and uses within the A Airport District shall be subject to the requirements of the Schedule of Regulations in Section 30-20 of this Chapter unless otherwise specified.

### 30-32C FLOOD HAZARD AREAS ORDINANCE.

- (A) See Section 12-4 of Chapter 12 of this Code establishing a Flood Hazard Areas Ordinance for the City of Three Rivers.

### 30-33 AMENDMENTS.

- (A) Amendments Allowed. The City Commission may from time to time amend or supplement this Chapter in accordance with Public Act 110 of 2006, as amended. Amendments to this Chapter may be initiated by filing of an application, as prescribed and available from the City Clerk, together with the appropriate fee as determined under Section 30-37 of this Chapter.
- (B) Procedure. The following procedure shall be followed for processing a proposed amendment or supplement to this Chapter.
- (1) Upon direction of the City Commission, or upon receipt of a valid application for zoning amendment, the Planning Commission shall schedule a public hearing on the proposed amendment. Notice of the hearing shall be published in a paper of general circulation not less than fifteen (15) days prior to the hearing. If an individual property or several adjacent properties are proposed for rezoning, fifteen (15) days' notice of the hearing shall be given to owners of the property in question, and to all property owners and occupants of structures within three hundred (300') feet regardless of whether the property or structure is located within the City of Three Rivers.

- (2) The Planning Commission shall conduct the public hearing, consider the proposed amendment, and make its recommendation to the City Commission. The recommendation shall be made not later than the next regular meeting of the Planning Commission following the public hearing.
- (3) The City Commission shall consider the proposed amendment, together with all information and recommendations pertaining thereto, and shall make its final decision. An optional second public hearing, duly noticed in the same manner as required by the Planning Commission, may be held by the City Commission.
- (4) Upon presentation of a protest petition meeting the requirements of this Subsection, a proposed amendment to this Chapter which is the object of the petition shall be passed only by a two-thirds (2/3) vote of the City Commission. A protest petition will be considered only if filed with the City Clerk not later than one (1) week prior to the second reading of the amending ordinance, and shall be signed by the following:
  - (a) The owners of at least twenty (20%) percent of the area of land included in the proposed amendment; or
  - (b) The owners of at least twenty (20%) percent of the area of land included within an area extending outward one hundred (100') feet from any point on the boundary of the land included in the proposed amendment.
  - (c) For purposes of Subsections (a) and (b) above, publicly owned land shall be excluded in calculating the twenty (20%) percent land area requirement.
- (5) Following the adoption of an amendment to this Chapter, one (1) notice of adoption shall be published in a newspaper of general circulation in the City within fifteen (15) days after adoption. The notice of adoption shall include the following:
  - (a) Either the text of the amendment or a summary of the regulatory effect of the amendment, including the geographic area affected.
  - (b) The effective date of the amendment to this Chapter, which shall be not less than seven (7) days from the date of the publication.
  - (c) The place and time where a copy of the amendment may be inspected.

### 30-34 SPECIAL EXCEPTION USES.

- (A) Purpose. In order to make this Chapter a flexible zoning control and still afford protection of property values and orderly and compatible development of property within the City, the City Commission may approve the location of certain uses within the various zoning districts, which uses are designated in this Chapter as special exception uses. Special exception uses are not permitted within the particular zoning district in which they are permitted unless the City Commission is satisfied that the following standards are met:
  - (1) That the establishment, maintenance or operation of the special exception use will not be detrimental to or endanger the public health, safety or general welfare.
  - (2) That the special exception use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor shall it substantially diminish and impair property values within its neighborhood.
  - (3) That the establishment of the special exception use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district.
  - (4) That adequate utilities, access roads, drainage and necessary facilities have been or are being provided.
  - (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
  - (6) That the special exception use shall in all other respects conform to the applicable regulations of the zoning district in which it is located and to any additional conditions or procedures as specified in this Section.
- (B) Special Exception Use Procedure. The following procedure for consideration of a special exception use shall be followed unless alternative procedures are specified for a particular special exception use.
  - (1) All applications for special exception use permits shall be filed with the City Clerk together with the appropriate fee as provided by Section 30-37 of this Chapter and shall include all pertinent plans, specifications and other data upon which the applicant intends to rely for a special exception use permit.
  - (2) The Planning Commission shall, upon receipt of a written application in proper form, schedule and hold a public hearing duly noticed in newspaper circulated within the City, and by a similar notice mailed or

personally delivered to the owners of property for which approval is being sought, to all persons for whom real property is assessed within three hundred (300) feet of the boundaries of the subject property, and to the occupants of all structures within three hundred (300) feet thereof regardless of whether the property or structure is located within the City of Three Rivers. The notice shall be given not less than fifteen (15) days before the date of such hearing. Addresses shall be those as shown on the last City assessment roll in the case of owners, or on the City's rental housing registration roll in the case of tenants. If the tenant's name is not known, the term occupant may be used.

- (3) Following the public hearing, the Planning Commission shall make a recommendation to either grant or deny a permit for the special exception use and shall state its reasons for its decisions in the matter. All conditions, limitations and requirements upon which a special exception use permit is recommended for approval shall be specified in detail by the Planning Commission in its decision and shall be forwarded to the City Commission.
- (4) The City Commission shall consider any request for a special exception use permit, together with all information and recommendations pertaining thereto, and shall make its final decision. An optional second public hearing, duly noticed in the same manner as required by the Planning Commission, may be held by the City Commission.
- (5) The plot plan and specifications, and all conditions, limitations and requirements imposed by the City Commission shall be incorporated as a part of the special exception use permit. Violations of any condition limitation or requirement of the permit at any time will cause revocation of the permit and the special exception use shall cease to be a lawful use.
- (6) Any property which is the subject of a special exception use permit which has not been used for a period of six (6) months (without just cause being shown which is beyond the control of the owner and which is acceptable to the City Commission) for the purposes for which the special exception use was granted shall thereafter be required to be used for only a permissible use as authorized in the particular zoning district, and the permit for which the special exception use was granted shall thereupon terminate.

(C) Special Exception Uses Permitted. The following special exception uses, namely:

- Home Occupation
- Planned Unit Development
- Joint Parking
- Off-Site Parking
- Domestic Assault Shelters
- Bed and Breakfast
- Professional Businesses
- Transitory Food Units
- Recycling Facilities
- Public Places of Worship
- Communication Towers
- Youth Correctional Home
- Motor Vehicle Sales Inside Buildings
- Day Spas and Massage Establishments
- Vehicle Impound Yards
- Contractor's Offices, Shops and Yards
- Large Retail and Commercial Service Buildings
- Commercial Planned Development (CPD)
- On-Site Wind Energy Conversion Systems
- Sexually Oriented Businesses
- Migrant Worker Boarding Houses
- Donation Boxes
- Light Industrial Uses
- Solar Farms (Ord. 825; 7-3-2018)
- Parolee Group Housing (Ord. 827; 2-5-2019)

may be allowed as permitted uses in specific zoning districts when the City Commission determines that application for the special exception use meets all the restrictions and requirements of this Chapter.

- (1) Home Occupation.
  - (a) Is operated in its entirety within the dwelling and not within any garage or accessory building located upon the premises except for incidental storage in or use of a residential-type garage upon the premises. (Ord. 820; 2-20-2018)
  - (b) Is only conducted by the person or persons occupying the dwelling as his, her or their principal

residence during a major portion of each month provided, however, that the City shall have the authority to permit one (1) additional subordinate assistant who does not so reside within the dwelling where the same would not materially impair the residential character of the neighborhood or cause traffic congestion or parking problems.

- (c) The dwelling has no exterior evidence, other than a permitted identification sign, to indicate that it is being utilized for any purpose other than that of a dwelling.
  - (d) The occupation conducted in the dwelling is clearly incidental and subordinate to the principal use of the premises for residential purposes, and no more than fifty (50%) percent of the floor area of one (1) story of the dwelling is devoted to the home occupation use.
  - (e) No goods are sold from the premises which are not directly related to the principal home occupation conducted therein.
  - (f) No occupation shall be conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to premises. Any noise, smoke, odor, electrical disturbance or the source of lighting shall not be discernible beyond the boundaries of the premises from which the occupation is conducted.
  - (g) The use shall not generate pedestrian or vehicular traffic beyond that normal to the residential district.
  - (h) The use shall not involve the use of commercial vehicles for daily delivery of materials or services to or from the premises.
  - (i) Any home occupation for which a special exception use has been granted shall be subject to inspection by the Zoning Administrator and may be terminated by order of the Zoning Administrator whenever the same fails to comply with this Chapter.
  - (j) The City Commission shall determine whether or not a proposed home occupation use complies with this Chapter and is within the spirit of this Chapter to ensure the compatibility of any home occupation use within the character of the zoning district in which the proposed home occupation is located and the health, safety and general welfare of the neighborhood will not thereby be impaired.
- (2) Planned Unit Development (PUD).

- (a) Purpose. The purpose of this special exception use is to permit flexibility in the regulation of land development; to encourage innovation in land use and variety in design, layout, and type of structures constructed; to achieve economy and efficiency in the use of land, natural resources, energy, public services, and utilities; to encourage, employment and shopping opportunities particularly suited to the needs of the residents of the City; and to encourage the use, reuse, and improvement of existing sites and buildings when the uniform regulations contained in other zoning districts do not provide adequate protection and safeguards for the site or surrounding area. The special exception PUD use is intended to accommodate developments with mixed or varied uses, sites with unusual topography or unique settings within the community, or on land which exhibits difficult or costly development problems; a PUD shall not be allowed where this zoning classification is sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated purposes above.

- (b) Permitted PUD Uses Within All Residential Districts.

Permitted residential special exception PUD uses include:

- Single-Family detached dwellings
- Two-Family dwellings
- Townhouses
- Apartment buildings
- Condominiums
- Housing similar in character to any of the above
- Any accessory use permitted in the residential zone
- Non-residential uses of a religious, educational, commercial, or recreational in a PUD (in addition to open space requirements) shall be permitted in accordance with the provisions of this Section. Buildings designed and intended to be used, in part or whole, for non-residential uses in a PUD shall be constructed to the following provisions:

If the PUD contains from one (1) to fifty (50) dwelling units, seventy-five (75%) percent of the dwelling units must be physically constructed prior to any non-residential use construction.

If the PUD contains more than fifty (50) dwelling units, fifty (50%) percent of the dwelling units shall be physically constructed prior to any non-residential use construction.

The only non-residential uses permitted within a residential PUD are:

- Bakery and dairy products, retail sales only
- Barber and beauty shops
- Books, stationary and newspapers
- Drugstores
- Groceries, food stuffs, and meat markets not exceeding 3,500 square feet in floor area
- Laundromats
- Shoe repair
- Tailoring and dressmaking
- Schools, nurseries, daycare centers
- Public Places of Worship
- Private or public clubs, lodges, and recreational facilities
- Public parks, wildlife preserves, and recreational areas
- Golf courses
- Restaurants limited to non-take-out eating establishments
- Office buildings to be occupied primarily by administrative, clerical, accounting, professional or business research organizations where the uses do not involve the handling, display, or sale on the premises of any merchandise, or the use of show windows or exterior display advertising of any kind except as otherwise provided in this Subsection.

- (c) Design Requirements for a Residential Planned Unit Development. Within a residential PUD approved under this Section, the requirements of this Section shall apply in lieu of any conflicting regulations applicable in the zoning district in which the PUD is located:
- (i) Number of Dwelling Units Permitted. The maximum number of dwelling units permitted within the PUD shall be determined by dividing the PUD area by the minimum residential lot area per dwelling unit required by the zoning district in which the PUD is located. In the event the PUD lies in more than one (1) zoning district, the number of dwelling units shall be computed for each district separately.
  - (ii) Lot Area Requirements. For purposes of determining net PUD density, the minimum lot area shall not be reduced for any permitted use more than fifty (50%) percent below that required in the zoning district in which the PUD is located.
  - (iii) Setback and Yards. The minimum setback and yard or open space requirements for building and structures may be reduced or increased at the discretion of the City Commission to avoid unnecessary disruption of the environment where reasonably equivalent open space is provided upon the site.
  - (iv) Minimum Lot Frontage and Width. The minimum lot frontage and width for any lot designated for a single-family dwelling may be reduced thirty-three (33%) percent below the requirements of the zoning district in which the PUD is located.
  - (v) Screening. A screening area may be required along with the perimeter of the PUD if deemed necessary to protect the values of adjoining property under separate ownership.
  - (vi) Amount of Open Space Required. Within every PUD there shall be planned and set aside permanently as part of the total development an amount of open space equal to not less than the aggregate accumulation of lot size reduction below the minimum lot area for the PUD as a whole. Before accepting the open space as meeting the requirements of this Subsection, the City Commission shall find the proposed open space has adequate access and that satisfactory arrangements will be made for the maintenance of the designated open space land.
  - (vii) Arrangement of Open Space. All required open space within a PUD shall be arranged so as to provide benefit to the maximum number of dwelling units. All separate tracts of open space shall have adequate access from at least one (1) point along a street.
- (d) Sign Standards. All signs in PUD's shall be subject to the following requirements:
- (i) General Regulations for All Signs. Except as otherwise provided herein, all signs shall comply with Section 30-19 of this Chapter.
- (e) Permitted Signs.

- (i) One (1) freestanding permanent sign per entrance to the PUD shall be permitted not to exceed fifty (50) square feet in area for the purpose of identifying the name of the PUD provided, however, that not more than two (2) signs shall be permitted per total completed PUD. As an alternative to one (1) of the foregoing permitted signs, a directory-type sign not exceeding eighty (80) square feet in area identifying the name of the PUD and non-residential uses therein shall be permitted at the entrance which is the primary entrance for more than one (1) non-residential use provided that any identification of an individual non-residential use shall not exceed ten (10%) percent of the total area of such directory-type sign. Any such sign shall be within the PUD and where adjacent to any contiguous residential classification or use shall be located at least fifty (50') feet from the interior boundary between the PUD and the residential classification or use.
  - (ii) In the event that a directory-type sign is not used, one (1) commercial sign not exceeding eighty (80) square feet in area and sixteen (16') feet in height shall be permitted identifying an aggregate of non-residential uses within the PUD provided that not more than ten (10%) percent of the total sign area is allocated to any individual non-residential use. This sign shall be within the PUD and at least fifty (50') feet from any boundary of the PUD.
  - (iii) Identification nameplates not exceeding twenty (20) square feet in area identifying residential and non-residential uses within the PUD shall be permitted flat against the wall of a building within the PUD and at the entrance of each designated parking area for such building. The total display surface of all identification nameplates for a particular building within the PUD shall not exceed twenty (20) square feet in area and shall not consist of more than one (1) identification nameplate per building and per parking area entrance.
  - (iv) Signs of an informational, non-advertising nature such as street signs and signs concentrating public or quasi-public areas shall be permitted.
  - (v) Temporary real estate signs not exceeding six (6) square feet in area shall be permitted. The sign shall not be illuminated.
- (f) The Planning Commission. The general theme, plan or policy for all signs proposed in a PUD shall be submitted with a sketch plan to the Planning Commission for review and approval before any sign is installed. After the review and approval, no signs shall be installed which do not comply with the approved plans. The Planning Commission shall consider compliance with the following criteria before making any decision regarding sign usage in a PUD.
- (i) The aesthetic qualities of any proposal.
  - (ii) The harmonious relationship of signs to buildings and landscaping within and adjacent to the PUD.
  - (iii) The contour of the land and the total acreage involved in the PUD.
  - (iv) The distance of any proposed sign from the boundaries of the PUD and its visibility from adjacent properties or public highways.
  - (v) The number, quality and character and location of entrances to the development as well as the uses in the area of the entrances.

The Planning Commission is hereby delegated the right and authority to authorize variations from the foregoing provisions which will not be incompatible with the purposes of the PUD or the foregoing criteria and will not be obstructive of view, light, or air, or hazardous or otherwise a nuisance or annoyance to adjacent developments, highway motorists or the general public. The purpose of this delegation of authority is to provide for some flexibility in the regulations and for new aesthetically pleasing concepts which in all cases would comply with the purpose and intent of the PUD to permit a harmonious intermix of land uses aesthetically attractive to both the occupants thereof and the general public.

(g) Application Procedure and Approval Process.

- (i) General. When a PUD is proposed, and before any building permit is granted, the developer shall apply for and secure approval of a special exception use permit in accordance with the following procedures and obtain approval of a detailed site plan from the City Commission.
- (ii) Step 1 - Application for Sketch Plan Approval. So that the City and the developer can reach an understanding of what is being proposed, and what is required, the developer shall submit an application and required fee in accordance with Section 30-37 of this Chapter and twenty-four (24) copies of a sketch plan to the Planning Commission. The

sketch plan shall be drawn to approximate scale and shall clearly show the following information:

- Boundaries of property;
  - Location and height of all buildings;
  - Interior roadway system including parking facilities and existing rights-of-way;
  - The interior open space system;
  - The overall storm water drainage system;
  - Principal ties to the neighborhood and community with respect to transportation, water supply and sewage disposal;
  - Delineation of the various residential and/or commercial areas, including size, number, location and number of housing units;
  - Construction phases if applicable; and
  - General statement as to how common open space is to be owned and maintained.
- (iii) The Planning Commission shall hold a public hearing on the application for a PUD in accordance with the provisions of Section 30-34(B) of this Chapter.
- (iv) Planning Commission Recommendation. The Planning Commission shall within sixty (60) days following the public hearing recommend approval or disapproval of the sketch plan or modifications thereto and so notify the City Commission of its decision.
- (v) City Commission Approval. Upon receipt of the Planning Commission recommendation, the City Commission shall within thirty (30) days approve, disapprove, or approve with modifications the sketch plan and so notify the applicant.
- (vi) Approval of Sketch Plan. Approval of the sketch plan shall not constitute approval of the detailed site plan, but shall be deemed an expression of approval of the layout as a guide to the preparation of the detailed plan.
- (vii) Request for Changes in Sketch Plan. If it becomes apparent that certain elements of the sketch plan, as it has been approved by the City, become unfeasible and in need of modification, the applicant shall then resubmit the entire sketch plan, as amended, to the City pursuant to the above procedures.
- (viii) Step 2 - Application for Detailed Site Plan Approval. After receiving approval of a sketch plan from the City Commission, the applicant may within one (1) year of the plan prepare a detailed site plan and submit fifteen (15) copies to the Planning Commission. The detailed site plan shall conform to the approved sketch plan and Section 30-36 of this Chapter.
- (ix) Required Standards for Approval. The City's review of the detailed site plan shall be based on the provisions of this Chapter and the following criteria:
- Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization, traffic controls, and pedestrian movements;
  - Location, arrangement, appearance, and sufficiency of off-street parking;
  - Location, arrangement, size and entrances of buildings, walkways and lighting;
  - Relationship of the various uses to one another;
  - Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or a noise deterring screen between adjacent uses and adjoining lands;
  - In the case of residential uses, the adequacy of usable open space for playground and recreation;
  - Adequacy of water supply, storm water and sanitary waste disposal facilities;
  - Adequacy of structures, roadways, and landscaping in areas with moderate to

- high susceptibility to flooding, ponding and/or erosion;
  - Compliance with all provisions of this Chapter; and
  - Compatibility of adjoining uses on and off the PUD site and preservation thereof.
- (x) Planning Commission Action on the Detailed Site Plan. The Planning Commission shall recommend its approval, disapproval, or approval with conditions or modifications and so notify the City Commission within sixty (60) days of receipt of the site plan.
- (xi) City Commission Approval. Upon receipt of the Planning Commission recommendation, the City Commission shall approve, disapprove, or approve with modifications the detailed site plan and so notify the applicant and Building Official.
- (h) Effect of Approval. After a detailed site plan has been approved and construction of any part of the PUD commenced, no other type of development will be permitted on the site without further approval thereof by the City after proceedings conducted as in the original application. This limitation shall apply to successive owners.
- (i) Revocation. If the construction on the PUD has not commenced within one (1) year from the date of approval, the special exception use permit shall be null and void.
- (j) Bond Requirement. A performance bond or bank letter of credit conditioned upon construction and development of the PUD in accordance with the approved plans may be required by the City to be filed with the City Treasurer at the time of application for a building permit where the PUD is to be completed in phases over a period of years, in such amounts and for such periods as, in the discretion of the City Commission, appears adequate to insure compliance with the approved plans.
- (3) Joint Parking. A special exception use may be allowed for two (2) or more businesses to provide the required off-street parking facilities by joint use of one (1) or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide for off-street parking separately. Approval of a special exception use for joint parking shall be subject to the following conditions:
- (a) Up to fifty (50%) percent of the parking facilities required for a theater, bowling alley, dance hall, bar or restaurant may be supplied by the off-street parking facility daytime uses in Subsection (d) below.
  - (b) Up to fifty (50%) percent of the off-street parking facilities required for any use specified under Subsection (d) below as primarily daytime uses may be supplied by the parking facilities provided by the following night-time or Sunday uses: public places of worship, bowling alleys, dance halls, theaters, bars or restaurants.
  - (c) Up to eighty (80%) percent of the parking facilities required by this Chapter for a public places of worship may be supplied by the off-street parking facilities provided by uses specified under Subsection (d) below as primarily daytime uses.
  - (d) For the purpose of this Section, the following uses are considered a primarily daytime use: banks, business offices, retail stores, personal service shops, and similar uses.
  - (e) Conditions required for joint use:
    - (i) The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within three hundred (300') feet of joint parking facilities.
    - (ii) The applicant shall show that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which joint use of off-street parking facilities is proposed.
    - (iii) A properly drawn legal instrument, executed by the parties concerned for joint use of off-street parking facilities, duly approved as to form and manner of execution by the City Attorney, shall be filed with the City Clerk and recorded with the St. Joseph County Register of Deeds.
- (4) Off-Site Parking. A special exception use may be allowed for off-site parking which is used to meet the requirements for off-street parking contained in this Chapter. Approval of the special exception use shall be subject to the following conditions:
- (a) Off-site parking shall be developed and maintained in compliance with all requirements and

standards of this Chapter.

- (b) Reasonable public access from off-site parking facilities to the use being served shall be provided.
  - (c) Off-site parking for multiple family dwellings shall be located within one hundred (100') feet from the property of the principal use served.
  - (d) Off-site parking for non-residential uses shall be located within five hundred (500') feet from the property of the principal use being served.
  - (e) Any use which depends upon off-site parking to meet the requirements of this Chapter shall maintain ownership and parking utilization of the off-site location until such time as on-site parking is provided, or a site in closer proximity to the principal use is acquired and developed for parking.
  - (f) All applications for an off-site parking special exception use permit shall conform with Section 30-36 of this Chapter. The site plan will be submitted and considered in conjunction with the procedure for approving the special exception use. All joint parking facilities shall comply with Section 30-16 of this Chapter pertaining to screening and landscaping.
- (5) Domestic Assault Shelters. A special exception use may be allowed for a dwelling providing temporary residential facilities for family or household members who are victims of domestic violence upon compliance with all applicable provisions of this Chapter and the following conditions and limitations.
- (a) Off-street parking in accordance with applicable provisions of this Chapter.
  - (b) Screening and landscaping from abutting and surrounding residential uses as required by this Chapter.
  - (c) Compliance with the provisions of Chapter 12 pertaining to Building and Housing, including license requirements.
- (6) Bed and Breakfast. A special exception use may be allowed for a single family residential structure which has ten (10) or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper, one (1) or more of which sleeping rooms are available for rent to registered overnight guests complying with all applicable provisions of this Chapter and the following conditions and limitations.
- (a) Rooms utilized shall be part of the primary residential use and not specifically constructed for rental purposes. The kitchen shall not be a commercial kitchen. There shall be no separate cooking facilities used for the Bed and Breakfast operation.
  - (b) The innkeeper shall reside on the premises.
  - (c) Off street paved parking is required at the rate of one (1) space per rental room plus one (1) for the innkeeper. Tandem parking is permitted. A parking plan must be approved prior to license being granted.
  - (d) Each sleeping room shall have a separate smoke detector alarm. There shall be a fire extinguisher in proper working order on every floor. There shall be at least two (2) exits to the outdoors from the premises.
  - (e) Lavatories and bathing facilities shall be available to all registered guests.
  - (f) If signs are used, they shall be no larger than three (3) square feet. Signs shall not be lighted or animated. The sign may be affixed to the front of the building or a post at the sidewalk. The sign and post shall complement the decor of the structure and shall not exceed five (5) feet in height.
  - (g) Breakfast shall be served only to residents and registered overnight guests at no extra cost.
  - (h) No stock-in-trade shall be displayed or offered for sale on the premises unless the Bed and Breakfast is located in a zoning district that permits retail sales.
  - (i) The maximum length of stay for any occupants of Bed and Breakfast operation shall be fourteen (14) days.
  - (j) Each operator shall keep a list of the names of all persons staying at the Bed and Breakfast. The list shall be available for inspection by City officials at any time.
  - (k) No commercial receptions, parties, catered meals, or other similar activities not normally found in a private residence shall be permitted.
  - (l) Bed and Breakfast operations shall not be permitted if the operation endangers, offends, or interferes with the safety or rights of others so as to constitute a nuisance.
- (7) Professional Businesses. A special exception use may be allowed to a licensed professional personal

service provider, regulated by the State of Michigan, to engage in a licensed profession within an existing dwelling as a non-resident of the dwelling upon complying with the following conditions and limitations:

- (a) The dwelling is located on that part of Hoffman Street, Portage Avenue, Kelsey Street or North Hooker Avenue which is designated as a major street or on a State highway trunk line.
  - (b) Adequate off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 30-17 of this Chapter, and the parking area is adequately screened and landscaped from surrounding and abutting residential uses in compliance with Section 30-16 of this Chapter.
  - (c) The business is operated in its entirety within the dwelling and not within any garage or accessory building located upon the premises except for incidental storage in or use of a residential-type garage upon the premises.
  - (d) The dwelling has no exterior evidence, other than a permitted identification sign, to indicate that the same is being utilized for any purpose other than that of a dwelling.
  - (e) No goods are sold from the premises which are not directly related to the professional business conducted therein.
  - (f) No activity shall be conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance; or the source of lighting shall not be discernible beyond the boundaries of the premises from which the occupation is conducted.
  - (g) The use shall not generate pedestrian or vehicular traffic beyond that normal to the residential district.
  - (h) The use shall not involve the use of commercial vehicles for daily delivery of materials or services to or from the premises.
  - (i) The premises and activities therein shall be subject to inspection by the Zoning Administrator and may be terminated by order of the Zoning Administrator whenever the same fails to comply with this Chapter.
  - (j) Hours of operation of the business shall be limited to the hours between 7:00 a.m. to 6:00 p.m., Monday through Saturday. The business shall not be in operation on Sunday.
  - (k) The City Commission has determined that the proposed use complies with this Chapter and is within the spirit of this Chapter so as to ensure the compatibility of the use with the character of the zoning district in which the same is located and that the health, safety and general welfare of the neighborhood would not be impaired by the proposed use.
  - (l) Renovations made to the exterior of the dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity and in compliance with applicable building codes.
- (8) **Transitory Food Units.** Transitory Food Units shall be recognized as a permitted use in all Business Zoning Districts. The following requirements shall apply in addition to all other applicable requirements of the City Code for the zoning district in which such Transitory Food Unit is proposed.
- (a) The permit fee and length of times permitted shall be in accordance with Chapter 5 of this Code.
  - (b) A Transitory Food Unit located in the B-3 **Central** Business District shall be located in the City parking lots unless Main Street is closed for a special event. **(CORRECTED in Ord. 850; 7-6-2021)**
  - (c) No Transitory Food Unit shall remain in any given location for more than seven (7) consecutive days. Violations of this Section are civil infractions.
  - (d) Each Transitory Food Unit shall be licensed by the Department of Public Health.
- (9) **Recycling Facility.**
- (a) Plans and specifications for a Recycling Facility shall be submitted to the Planning Commission in accordance with Section 30-36 and shall include the following:
    - (i) Means of limiting access including fencing, gates, natural barriers, or other methods.
    - (ii) Details of the method of treating or disposing of liquid waste resulting from operation of the Facility as it relates to the City's Waste Water Treatment Plant.
    - (iii) A detailed description and statement of appurtenances and procedures intended to handle

heavy or bulky items, store refuse beyond the end of the working day, and control dust, odors, and fire hazards in compliance with State and Federal regulations.

- (iv) The method of final reduction such as compacting, grinding, shredding, compression, or tamping equipment.
  - (v) Daily clean-up procedures.
  - (vi) Other details as required by the Planning Commission to protect the public health, safety and general welfare.
- (b) Maintenance of Premises Generally.
- (i) The Recycling Facility shall be conducted at all times in compliance with all applicable provisions of City Code and State and Federal regulations.
  - (ii) The premises used in the conduct of the Recycling Facility shall be maintained so that rats, vermin and all the hazards to health are kept to a reasonable minimum and under control at all times and shall comply promptly with all requests and directives of the Department of Public Health, the City and other governmental agencies.
  - (iii) Adequate provisions shall be made for routine operational maintenance of the Recycling Facility and all appurtenances.
- (c) Size of Site. The premises for the Recycling Facility shall not be less than five (5) acres in size.
- (d) Location.
- (i) The Recycling Facility shall be located not less than three hundred (300') feet from the nearest residential zone unless the Planning Commission shall find and determine that a greater distance up to five hundred (500') feet, is required under the particular circumstances of the proposed Recycling Facility and a residential zone.
  - (ii) The site for the Recycling Facility must be located on major arterial streets and not on residential or collector-type streets. Roadways on the Recycling Facility site shall be all weather roads and shall maintain a condition to prevent a dust nuisance.
- (e) Screening.
- (i) The Facility shall be completely screened from view from public rights of way and adjacent properties by a vertical wall or frame (and associated gates and doors) with a uniform height of no less than ninety-six (96") inches. The wall or fence shall be plumbed vertically and squared and constructed of masonry material with natural or painted finish; wood with appropriate finish for species use; plywood of a type and texture customarily used as exterior building siding protected from weathering; corrugated or channeled metal with a field or factory applied finish approved by the finish manufacturer for exterior use on the specific metal of the panel. The wall or fence shall resist the exterior wall wind loads prescribed in the Building Code adopted by the City. Verification of the wind load resistance must be provided by a Michigan registered architect or engineer. Gates shall be constructed of materials as prescribed for the non-masonry walls or fences. Gates shall be supported so as to remain level and plumb when closed.
  - (ii) The wall or fence and gates and doors shall be repaired, maintained and kept in good condition (free of chips, scratches, peeling and graffiti) and set back a minimum of six (6') feet from property lines abutting public rights-of-way. Gates and doors shall not extend into the public right-of-way and shall be closed when the Recycling Facility is not in use or operation. The areas outside of the walls or fences on the premises of the Recycling Facility shall be covered with grass or ground cover and kept clean.
- (f) Nuisance Prohibited. A Recycling Facility shall be conducted so as to not create a nuisance by reason of noise, odors, smoke, fumes, vibration or any other reason or condition. Dust and odor resulting from unloading and operation of the Facility shall be reasonably controlled at all times. No rubbish dump shall be operated or permitted in conjunction with a Recycling Facility.
- (g) Open Burning. No burning of rubber or other substances which may pollute the air shall be permitted on premises of a Recycling Facility. Any fires lighted or maintained upon the premises shall be subject to all reasonable rules and directives of the Chief of the Fire Department.
- (h) Noise Control. A Recycling Facility shall be conducted at all times in accordance with the noise restrictions of Chapter 4-12 of the City Code. No heavy sorting shall take place and no break up

hammers shall be used at a Recycling Facility between the hours of 6:00 p.m. and 7:00 a.m.

- (10) Public Places of Worship. Public places of worship may be permitted as a special exception use provided that:
- (a) Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 30-16 of this Chapter.
  - (b) Adequate off-street parking and access are provided on the site or on lots directly abutting or directly across from a public street or alley to the principal use in compliance with Section 30-17 of this Chapter and that the parking area is adequately screened and landscaped from surrounding and abutting residential uses in compliance with Section 30-16 of this Chapter.
  - (c) Adequate off-street loading and service entrances are provided and regulated where applicable by Section 30-18 of this Chapter.
- (11) Communication Towers. A communications tower may be permitted as a Special Exception Use in the B-1, B-2, 1-1 or I-2 Districts provided that:
- (a) All applications for Communications Towers and related facilities must include a Site Plan as outlined in Section 30-36 of this Chapter and shall be reviewed and determined by the Planning Commission in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by the Planning Commission in its discretion:
    - (i) Communication Towers and related facilities shall be located and designed to be harmonious with the surrounding area. Among other things, all reasonable attempts shall be made and thoroughly explored to utilize existing structures on which to place facilities, i.e., to utilize attached Wireless Communication Facilities.
    - (ii) Communication Towers and related facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions as confirmed by submission of a certification of compliance by the applicant's licensed engineer.
    - (iii) Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights. Structures which require or are proposed to have high intensity (strobe) lighting shall not be permitted.
  - (b) Antennas for Commercial Wireless Telecommunication Services shall be required to be located on any existing approved communication tower or building within a one (1) mile radius of a proposed tower unless one (1) or more of the following conditions exists:
    - (i) The planned equipment would exceed the structural capacity of the existing tower or building as documented by a qualified and registered engineer, and the existing tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
    - (ii) The planned equipment would cause interference materially affecting the usability of any other existing or planned equipment at the tower or building as documented by a qualified and registered professional engineer, and the interference cannot be prevented at a reasonable cost.
    - (iii) Existing or approved towers and buildings within one (1) mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and registered professional engineer.
    - (iv) Other unforeseen reasons that make it unfeasible to locate the planned equipment upon an existing tower or building.
  - (c) Any proposed Communication Tower shall be designed structurally, electrically, and in all other respects, to accommodate both the applicant's equipment and comparable equipment for at least two (2) additional users. Towers must be designed to allow for future rearrangement or equipment upon the tower and to accept equipment mounted at varying heights.
  - (d) Communication Towers shall be designed to blend into the surrounding environment through the use of color and architectural treatment except in instances where color is dictated by other state or federal authorities. Towers shall be of a mono-pole design unless the Planning Commission approves an alternative design.
    - (i) If an approved alternate design is a guyed tower, the anchorage for the guyed tower must

be on the same parcel of land as the tower and setback from property lines a minimum of twenty (20) feet.

- (e) If located on the same zoning lot with another permitted use, communication towers and any other structures connected therewith shall not be located in a front yard or side yard abutting a street.
- (f) Any part of the structures or equipment placed on the ground pertaining to the communications tower shall be set back for a distance equal to the setbacks for main buildings for the district in which it is located except that in no case shall such structures or equipment be located less than twenty-five (25) feet from any adjacent lot line or main building. This provision shall not apply to antennas located on existing buildings, towers, or other existing structures.
- (g) The maximum height of a new or modified communications tower shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to co-locate on the structure).
- (h) The related unmanned equipment structures shall not contain more than 750 square feet of gross floor area or be more than 12 feet in height. The Planning Commission may require such structures or equipment on the ground to be screened in accordance with the applicable provisions of Section 30-16 of this Chapter.
- (l) Communication Towers shall not be illuminated unless required by other state or federal authorities. No signs or other advertising not related to safety or hazard warning shall be permitted on any part of the tower or associated equipment or buildings.
- (j) Communication Towers which are abandoned or unused shall be removed, along with any associated structures or equipment, within twelve (12) months of the cessation of operations unless a time extension is granted by the Zoning Administrator. Only one (1) three (3) month extension shall be permitted and then only if the Zoning Administrator finds that the owner or former operator of the facility is taking active steps to ensure removal.
  - (i) To ensure removal of the Communication Tower and related unmanned equipment structures when they have been abandoned or are no longer needed, the application shall include an agreement, to be approved by the City Attorney, requiring the applicant and the owner of the property, and any successors or assigns, to remove the facility as required in Subsection (j) above. The agreement shall provide that, upon failure of the owner of the facility to fulfill the agreement, the City may remove the Communication Tower and related structures and charge the costs of removal to the owner which costs shall be a lien against the property until paid to the City. The lien shall be of the same character and effect as created by the City Charter for City taxes.
- (k) Communication Towers shall not be approved by the Planning Commission if any part of the tower is located within two hundred (200) feet of any Residential District lot line.
- (12) Youth Correctional Home means a building together with its permitted accessory buildings and structures which are inhabited by six (6) or more persons under the age of eighteen (18) who are under some restraint or security but in which free movement is allowed from sleeping areas and other spaces to the exterior without restraint. A Youth Correctional Home ("YCH") may be permitted as a Special Exception Use provided that:
  - (a) The minimum setback for side yards is increased to fifty (50) feet except that existing structures with less than a fifty (50) foot side yard setback may be approved by the Planning Commission provided the side yard is adjacent to a public park or similar area.
  - (b) A screening area may be required along with the perimeter of the YCH if deemed to protect the values of adjoining property under separate ownership.
  - (c) A YCH shall be provided with outdoor open spaces of not less than seventy (70) square feet per resident or an adjacent public park or similar area may be approved by the Planning Commission.
  - (d) No activity shall be conducted upon or from the premises that would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, or electrical disturbance. The source of lighting shall not be discernible beyond the boundaries of the premises from which the YCH is operated.
- (e) Failure to obtain required permits for construction activities and/or operation of a YCH as required by the State of Michigan or the governing Health Department may result in termination of the Special Exception Use.

- (f) Other details as required by the Planning Commission to protect the public health, safety, and general welfare are part of the final plans.
- (13) Motor Vehicle Sales Inside Buildings
- (a) Plans and Specification for an Interior Motor Vehicle Sales facility (IMVSF) shall be submitted to the Planning Commission in accordance with Section 30-36 and shall include the following:
- (i) A registered architectural engineers calculations and statement that the structure can support a definite number of vehicles identified by weight and make of vehicle.
  - (ii) An application for a building permit if required for structure modifications.
  - (iii) Approval of the Fire Chief of the City of Three Rivers.
  - (iv) Other details as required by the Planning Commission to protect the public health, safety, and general welfare.
- (b) The premises and activities there is shall be subject to inspection by the Zoning Administrator and may be terminated by Order of the Zoning Administrator whenever the same fails to comply with this Chapter.
- (c) The areas outside of the walls on the premises of the IMVSF shall be kept clean.
- (d) All signs for the facility shall be in accordance with Section 30-19.
- (14) Day Spas and Massage Establishments.
- (a) Such use shall comply with the Massage Establishment Licensing Regulations as outlined in Chapter 5 of the Three Rivers Code of Ordinances, as amended.
  - (b) Such use shall not be located adjacent to a R-1, R-2 or R-3 District.
  - (c) Such use shall be so located as to abut a major thoroughfare, and all ingress and egress to the site shall be directly from said major thoroughfare.
  - (d) Plans and specifications for a day spa and massage establishment shall be submitted to the Planning Commission in accordance with Section 30-36.
- (15) Vehicle Impound Yard.
- (a) Plans and Specifications for a vehicle impound yard shall be submitted to the Planning Commission in accordance with Section 30-36 and shall include the following:
- (1) Means of limiting access including fencing, gates, natural barriers, or other methods.
  - (2) Details of the methods of storing and disposing of salvaged liquid and solid waste resulting from the operation of the vehicle impound yard.
  - (3) Procedures and methods used for safeguarding vehicles held in custody.
  - (4) Statistical reporting method for inventory records.
  - (5) Other details or conditions as required by the Planning Commission to protect the public health, safety, and general welfare.
- (b) Operation of Premises, Generally.
- (1) The vehicle impound yard shall be operated in compliance with all applicable provisions of the City Code and State and Federal Regulations.
  - (2) The premises used for the vehicle impound yard shall be maintain so that rats, vermin and all hazards to health are kept to a minimum and under control at all times. The owner and the operator of a vehicle impound yard shall promptly comply with all directives of the Department of Public Health, the City and other governmental agencies.
  - (3) Vehicles or vehicle bodies shall be stored in rows with a minimum twenty (20) foot wide drive separating each row.
  - (4) Vehicles stored within twenty (20) feet of the yard fence shall not exceed the height of the fence.
  - (5) No vehicles shall be placed outside the yard fence.
  - (6) No fluids removed from vehicles shall be applied as a dust control method.

- (7) All burning is prohibited.
- (8) Batteries shall be removed from junk or wrecked vehicles, which are held for salvage as scrap metal.
- (9) Radiator and fuel tanks of junk or wrecked vehicles, which are held for salvage as scrap metal, shall be drained.
- (10) Salvaged batteries, oil, and other such substances shall be legally disposed of. Temporary storage on site shall be in a manner that prevents leakage and is approved in writing by the Three Rivers Fire Chief.
- (11) On the first of each month, the operator of the vehicle impound yard shall file a written report with the Chief of Police for all vehicles in the facility. The report shall indicate the date entered, the vehicle identification number, the registration number, issuing state, condition of the vehicle, and when it occurs, the date and final dispensation of the vehicle.

(c) Size of Site. The premises for the vehicle impound yard shall not be less than five (5) acres in size.

(d) Location. The vehicle impound yard shall be located on a major street and not less than five hundred (500) feet from:

- (1) Any residential zone.
- (2) Water well fields.
- (3) Lakes or streams.
- (4) Any public building, public place of worship, hospital, sanitarium, convalescent home, adult foster care, senior citizen complex, day nursery, school or similar use.
- (5) Any intersection for a public street or highway.

(e) Screening.

(1) A vehicle impound yard shall be completely screened from view from public right-of-ways and adjacent properties by a vertical wall or frame (and associated gates and doors) with a uniform height of no less than ninety-six (96) inches. The wall or fence shall be plumbed vertically and squared and constructed of masonry material with natural or painted finish; wood with appropriate finish for species use; plywood of a type and texture customarily used as exterior building siding protected from weathering; corrugated or channeled metal with a field or factory applied finish approved by the finish manufacturer for exterior use on the specific metal of the panel. The wall or fence shall resist the exterior wall wind loads, prescribed in the Building Code adopted by the City. Verification of the wind load resistance must be provided by an architect or engineer licensed to practice in the State of Michigan.

(2) Gates shall be constructed of materials as prescribed for the non-masonry walls or fences. Gates shall be supported so as to remain level and plumb when closed.

(3) The wall or fence and gates and doors shall be repaired, maintained and kept in good condition (free of chips, scratches, peeling and graffiti) and set back a minimum of thirty (30) feet from property lines abutting public right-of-ways. Gates and doors shall be closed when the vehicle impound yard is not in use or operation. The areas outside of the walls or fences on the premises of the vehicle impound yard shall be covered with grass or ground cover and kept clean.

(f) Nuisance Prohibited. A vehicle impound yard shall be conducted so as to not create a nuisance by reason of noise, odors, smoke, fumes, vibration or any other reason or condition. Dust and odor resulting from unloading and operation of the yard shall be reasonably controlled at all times.

(g) Noise Control. A vehicle impound yard shall be conducted at all times in accordance with the noise restrictions of Section 4-9 of Chapter 4 of the City Code. No heavy sorting shall take place. No break up hammers shall be used. No vehicles shall be crushed between the hours of 6:00 P.M. and 8:00 A.M. or at any time on Sundays or any legal holiday designated by the City Commission.

(16) Contractors Offices, Shops and Yards

(a) Contractors' shops and yards may not be situated in a building registered in the National Historic Downtown District; however, Contractors' offices are permitted.

- (b) Plans and specifications for a contractor's office, shop, and yard shall be submitted to the Planning Commission in accordance with Section 30-36 and shall also include the following:
  - (i) Storage yard area screening in the form of solid fencing ten (10') feet high, setback from sidewalks or front property lines a minimum of three (3') feet. The vacant space between the fence and the sidewalk shall be landscaped with shrubs and other decorative plantings to soften the line of the fence.
  - (ii) Elevation drawings of the subject site or buildings, neighbor buildings, screening and landscaping on a scale to adequately show relationship to each other and improvements to the site in question. Only buildings and fences that, in the opinion of the Planning Commission, blend in with the historical Central Business District shall be permitted.
  - (iii) Parking areas and storage yards shall be designed and surfaced in accordance with Section 30-17 of Chapter 30 of the City Code. Storage yards shall be surfaced with asphalt, concrete, or similar durable and dustless material.
- (c) Operations of Premises, Generally
  - (i) Material, supplies, equipment, and vehicles stored or parked within twenty (20) feet of the yard fence adjacent to public right of way shall not exceed the height of the fence.
  - (ii) Shop or yard noise discernable beyond the property lines of the contractors' office, shop and yard is not permitted between the hours of 6:00 P.M. and 8:00 A.M. or any time on Sundays or any legal holiday as designated by the City Commission.
  - (iii) Noise Control. Contractors' shops and yards shall be conducted in accordance with the noise restrictions of Section 4-9 of Chapter 4 of the City Code.
- (d) Screening
  - (i) Contractor's yards shall be completely screened from view from public rights of way and adjacent properties by a vertical wall or frame (and associated gates and doors) with a uniform height of no less than one hundred twenty (120) inches. The wall or fence shall be plumed vertically and squared and constructed of masonry material with natural or painted finish; wood with appropriate finish for species use; plywood of a type and texture customarily used as exterior building siding protected from weathering; corrugated or channeled metal with a field or factory applied finish approved by the finish manufacturer for exterior use on the specific metal of the panel. The wall or fence shall resist the exterior wall wind loads prescribed in the Building Code adopted by the City. Verification of the wind load resistance must be provided by a Michigan registered architect or engineer.
  - (ii) Gates shall be constructed of materials as prescribed for non-masonry walls or fences. Gates shall be supported so as to remain level and plumb when closed.
  - (iii) The wall or fence and gates and doors shall be repaired, maintained and kept in good condition (free of chips, scratches, peeling and graffiti). Gates and doors shall be closed when the yard is not in use. The areas outside of the walls or fences on the premises of the contractor's yard shall be covered with grass or ground cover and kept clean.
- (e) Nuisance Prohibited. Contractor's shops and yards shall be conducted so as to not create a nuisance by reason of noise, odors, smoke, fumes, vibration or any other reason or condition.
- (17) Large Retail and Commercial Service Buildings – Commercial Planned Development (CPD)
  - (a) The provisions of this Subsection are intended to ensure that large retail and commercial service buildings are compatible with the surrounding area and the overall community character. The provisions of this Subsection shall apply to: (1) all new retail or commercial service buildings; (2) all additions to retail or commercial service buildings constructed after July 1, 2005; and (3) all existing retail or commercial service buildings on lands that are transferred to the jurisdiction of the City after July 1, 2005. In this Subsection a "retail or commercial service building" shall mean a building or buildings in a Commercial Planned Development (referred to in this Subsection as "CPD" or "Development"). A CPD shall include: (1) a building or buildings in a business establishment or establishments engaged in retail sales and/or commercial services primarily to the general public whose total sales floor area exceeds forty-five thousand (45,000) square feet; and (2) regardless of the size of the building or buildings of the Development, in which the number of parking spaces exceeds one hundred and twenty (120) parking spaces in a single or double line. All Commercial Planned Developments shall require a Special Exception Use Permit and shall be subject to the

general standards for the approval of Special Exception Use Permits. Plans and specifications for a CPD shall also be submitted to the Planning Commission in accordance with Section 30-36.

- (b) It is intended that a CPD shall provide an attractive, comfortable and convenient environment for patrons of the Development and that the Development be designed and constructed in such a way as to be compatible with the environment and with neighboring uses, especially residential areas.
- (c) A CPD should be located in areas within the City which are designated in the Master Plan for intensive or general commercial use.
- (d) Definitions as used in this Section:
- (e) Accessory uses. The following accessory uses are permitted in a CPD, including but not limited to the following:
  - (i) Satellite dishes, antennas and communication devices if not being used in connection with a radio or television station.
  - (ii) Accessory uses as permitted in the applicable Business District (B-1 or B-2).
  - (f) Compatibility with City Plans. The applicant for a Special Exception Use Permit shall provide, through a written Compatibility Report, adequate evidence that the proposed building(s) and overall CPD project shall be compatible with the City's Master Plan for the area. The Compatibility Report shall specifically address the following items.
    - (i) A description of how the proposed CPD is compatible with adopted City Plans, including the Master Plan, and other plans officially adopted by the City;
    - (ii) A completed Community Impact Analysis which shall include the following:
      - a. For a building or buildings in a CPD totaling over sixty thousand (60,000) square feet of gross floor area or based on necessity by the Planning Commission, a completed Transportation and Traffic Impact Analysis in a format acceptable to the Michigan Department of Transportation;
      - b. Prior to approval of a CPD having a building or buildings over sixty thousand (60,000) square feet of gross area, the applicant shall provide adequate funding to allow the City to hire a consultant of its choice with appropriate experience to complete and present an Economic and Fiscal Impact Analysis in the form as shown in Chart 4 of this Chapter. The analysis shall be completed within sixty (60) days from the date on which the City received such funding from the Applicant.
  - (g) Building Location. If the Planning Commission determines that there is sufficient distance between the primary building of the proposed Development and a public street to include smaller buildings on pads or outlots closer to the public street, then the overall Development design shall include provisions for such smaller buildings. The placement and orientation of all buildings must facilitate appropriate land use transitions and appropriate traffic flow to adjoining streets, neighboring commercial areas, and neighborhoods. The overall Development design shall comply with the community character objectives as described in the City's Master Plan.
  - (h) Building Materials. Exterior building materials shall comply with the provisions of Section 30-19B of this Chapter.
  - (i) Building Design. The building exterior shall complement other buildings in the vicinity, and shall be of a design determined appropriate by the Planning Commission.
  - (j) Building facades: Building facades shall include a repeating pattern that includes no less than three (3) of the following elements: (i) color change, (ii) texture change, (iii) material modular change, (iv) expression of architectural or structural bay through a change in plane no less than twenty four (24") inches in width, such as an offset, reveal or projecting rib. At least one of these elements shall repeat horizontally. All elements shall repeat at intervals of no more than thirty (30') feet, either horizontally or vertically.
  - (k) Landscaping Commercial Planned Development. In addition to compliance with the general landscaping requirements of Section 30-16 of this Chapter, on-site landscaping shall be provided and maintained according to the following landscaping requirements:
    - (i) Building foundation landscaping is required for all building frontages in order to provide

visual breaks in the mass of the building. The foundation landscaping shall be placed along thirty (30) percent of the building's total perimeter, predominately near and along customer facades and entrances facing public streets. One (1) ornamental tree six to seven (6-7) feet at planting or one and one-quarter (1¼) inch caliper, and four (4) shrubs at a minimum height of eighteen (18") inches tall shall be planted for every thirty (30') linear feet of building foundation planter area or as approved by the Planning Commission.

- (ii) One (1) shade tree at a minimum of two (2.0") one and one-half (1½) inch caliper shall be planted at fifty (50) feet centers along, and within ten (10) feet of, all public and private streets and drives, including parking lot connections and circulation drives, and loading areas. The tree plantings shall be planted in tree wells along the circulation drives adjacent to the sides of the store that face a public or private street, along both sides of internal drives, and along the outside edge of loading areas. Arrangement of trees in clusters or groupings is encouraged, but in no case shall trees be more than fifty (50') feet apart.

Credit toward required trees may be obtained for existing trees which measure a minimum of eight (8") inches in diameter at breast height (DBH) that are preserved within the parking lot area or within fifteen (15') feet of and on the same parcel as the parking lot area. Each eight (8") inches or fraction thereof of DBH of any healthy existing tree that is preserved may be deemed equivalent to one (1) required tree. Up to fifty (50%) percent of the required trees of this Subsection may be satisfied by preserving existing trees which meet the standards of this Subsection.

Landmark tree means any tree of twenty-four (24") inch DBH or greater and that has a health and condition standard factor of over fifty (50%) percent (based on the standards established by the International Society of Arboriculture whose standards consider the soundness of the trunk, the growth rate, the structure of the tree, the presence of insects or disease, the crown development, and the life expectancy) shall be specifically noted on the site plan. The definition of a landmark tree does not include any tree identified as an invasive species.

- (iii) One (1) shade tree at a minimum of one and one-half (1½) inch caliper shall be planted on each parking lot peninsula and island.
- (iv) All landscaped areas shall be at least ten (10) feet wide in their smallest dimension, except that tree wells may be a minimum of thirty-six (36) square feet.
- (v) For a Development with a primary building exceeding forty-five thousand (45,000) square feet in total gross floor area, and where the CPD abuts an area zoned or planned for residential, institutional, or office use, a minimum six (6) foot high berm, with a slope not to exceed one (1') foot rise in three (3') feet horizontal and a flat top of at least two (2') feet across, shall be provided. Berms shall have a flat or gently rounded top. The Planning Commission may require berms for Developments having less than forty-five (45,000) thousand square feet depending on the scope and location of the CPD. The berm shall be planted with a double row of white, green or blue spruce plantings, or similar species and varieties approved by the City, spaced fifteen (15) feet on center as appropriate.

(l) Building Entrances. Building entryways open to the public shall be clearly defined and highly visible on the building's exterior design, and shall be emphasized by on-site traffic flow patterns. Two (2) or more of the following design features shall be incorporated into all building entryways: canopies or porticos, overhangs, projections, arcades, peaked roof forms, arches, outdoor patios, display windows, distinct architectural details. Where additional stores will be located in the principal building, each such store shall have at least one (1) exterior customer entrance that shall conform to the above requirements.

(m) Building Color. The Planning Commission shall determine compatible and appropriate colors of building facades, building trim, and architectural accent elements.

(n) Traffic Impact. Required for buildings over sixty thousand (60,000) square feet:

- (i) All Commercial Planned Developments shall have direct access to an arterial street, or to a collector level street deemed appropriate by the Planning Commission.
- (ii) Vehicle access shall be designed to accommodate peak on-site traffic volumes without disrupting traffic on public streets or impairing pedestrian safety. This shall be accomplished through adequate parking lot design and capacity; access drive entry throat length, width, design, location, and number; and traffic control devices; and sidewalks.
- (iii) The site design shall provide direct connections to adjacent land uses if required by the

City. The applicant shall provide adequate funding to the City to hire a traffic engineer of the City's choice to prepare a Traffic Impact Analysis following Michigan Department of Transportation guidelines. The Traffic Impact Analysis shall consider the parking lot one hundred (100%) percent full for the potential traffic congestion analysis. When the traffic engineer retained by the City reports that proposed project may cause off-site public roads, intersections, or interchanges to be significantly congested, the City may deny the application, require a size reduction in the proposed Development, or require that the developer construct and/or pay for required off-site improvements.

(o) Screening.

- (i) All ground-mounted and wall-mounted mechanical equipment, refuse containers and any permitted outdoor storage shall be fully concealed from on-site and off-site ground level views, with materials identical to those used on the building exterior.
- (ii) All rooftop mechanical equipment shall be screened by parapets, upper stories, or other areas of exterior walls or roofs so as to not be visible from public streets adjacent or within one thousand (1,000) feet of the Development. Fences or similar rooftop screening devices may not be used to meet this requirement.
- (iii) Loading docks shall be completely screened from adjoining public streets and properties. The screening may be accomplished through loading areas internal to buildings, screen walls, which match the building exterior in materials and design, fully opaque landscaping at time of planting, or combinations of the above.
- (iv) Gates and fencing may be used for security and access, but generally not for screening, specific exceptions may be decided upon by the Planning Commission and they shall be of high aesthetic quality. Decorative metal picket fencing and screening is acceptable. Decorative, heavy duty wood gates may be used.

(p) Parking Lot Design.

- (i) This Subsection applies to parking lots, regardless of the size of the primary building of the Development, in which the number of parking spaces exceeds one hundred and twenty (120) or more parking spaces in a single or double line.
- (ii) The minimum size of interior parking lot landscaping shall be based on the total number of proposed off-street parking spaces: a minimum of one thousand four hundred (1,400) square feet of interior landscaped islands shall be provided for the first 120 parking spaces plus an additional 20 square feet for each parking space over 120.
- (iii) Parking lot design shall employ interior landscaped islands at all parking aisle ends. In addition, parking lot shall include landscaped islands within each parking aisle spaced at intervals no greater than one island per every row of twenty (20) contiguous parking spaces in that aisle which serve to break up the expanse of pavement. Each required landscaped island shall be a minimum of three hundred sixty (360) square feet with a minimum dimension of ten (10) feet in any direction and contain at least one (1) shade tree and grass, ground cover or mulch. Stone or aggregate shall not be accepted to meet this requirement. Landscape areas within the corners of the parking lot may be counted as an island if at least one (1) shade tree is located within the corner area.
- (iv) Landscaped islands in and adjacent to parking lot shall be protected by curbs or wheel chocks pursuant to Section 30-17,(D),(6),(I). Alternative barrier designs which provide improved infiltration or storage of storm water are encouraged and may be allowed pursuant to Planning Commission approval.

(q) Bicycle and Pedestrian Facilities: for Facilities Requiring more than Seventy-Five (75) Parking Spaces.

- (i) The entire Development shall provide for safe pedestrian and bicycle access to all uses within the Development, connections to existing and planned public pedestrian and bicycle facilities, and connections to adjacent properties.
- (ii) Pedestrian walkways shall be provided from all building entrances to existing or planned public sidewalks or pedestrian/bike facilities. The minimum width for sidewalks adjacent to buildings shall be ten (10') feet; and the minimum width for sidewalks elsewhere in the Development shall be five (5') feet. Sidewalks with the sidewalk area of public streets adjoining the Development shall be constructed and maintained as provided in Chapter 20 of this Code.

- (iii) Sidewalks other than street sidewalks or building aprons shall have adjoining landscaping along at least fifty (50%) percent of their length. The landscape shall match the landscaping used for the street frontages.
  - (iv) Crosswalks shall be distinguished from driving surfaces to enhance pedestrian safety by using different pavement materials, pavement color, pavement textures, and signage.
  - (v) The Development shall provide secure, integrated bicycle parking at a rate of one (1) bicycle rack space for every twenty-five (25) vehicle parking spaces.
  - (vi) The Development shall provide exterior pedestrian furniture in appropriate locations at a minimum rate of one seat for every twenty thousand (20,000) square feet of gross floor area.
  - (vii) If the Development has six (6) or more rows of parking spaces in its parking lot, there shall be pedestrian walkway or isle between every third row.
- (r) Cart Returns. A minimum number of cart return areas and the minimum square footage of each such area shall be determined by the Planning Commission during its site plan review. Cart corrals shall be of durable, non-rusting, all season construction, and shall be designed and colored to be compatible with the building and parking lot light standards. Established cart returns shall not be removed without the prior written approval of the City.
- (s) For Buildings over 45,000 Square Feet.
- (i) If the primary building in the Development has an area of more than forty-five thousand (45,000) square feet, the building shall employ varying setbacks, heights, roof treatments, doorways, window openings, and other structural or decorative elements to reduce apparent size and scale of the building;
  - (ii) A minimum of twenty (20%) percent of all of the combined linear roof eave or parapet lines of the building shall employ differences in height, with such differences being six (6') feet or more as measured eave to eave or parapet to parapet as otherwise approved by the Planning Commission. A minimum of twenty (20%) of the building's facades visible from a public street shall employ actual protrusions or recesses with a depth of at least six (6') feet. No uninterrupted façade shall extend more than one hundred (100') feet; and
  - (iii) Roofs with particular slopes may be required complement existing buildings or otherwise establish a particular aesthetic objective.
- (t) Municipal Water and Sewer. All uses in the Commercial Planned Development must be connected to municipal water and sewer lines.
- (u) Underground wire and Cable. All telephone, electric, television and similar services distributed by wire and cable shall be placed underground.
- (v) Outdoor Display Areas. Exterior display areas shall be permitted only where clearly depicted on the approved site plan. All exterior display areas shall be separated from motor vehicle routes by a physical barrier visible to drivers and pedestrians, and by a minimum of ten (10') feet. Display areas on building aprons must maintain a minimum walkway width of ten (10') feet between the display items and any vehicle drives.
- (w) Outdoor Storage Uses and Areas. Exterior storage structures or uses, including the parking or storage of service vehicles, snow removal equipment, snow storage areas, trailers, equipment, containers, crates, pallets, merchandise, materials, forklifts, trash, recyclables, and all other items shall be permitted only where clearly depicted and labeled on the approved site plan. Outdoor storage uses and areas shall be appropriately screened using techniques as approved by the Planning Commission. The provisions of this subparagraph shall be subject to exception by the Planning Commission during site plan review for good cause demonstration by the applicant. No storage of snow removal equipment is allowed on parking lots.
- (x) Lighting. On-site exterior lighting shall meet all the standards of Section 30-19A of this Chapter, except that in addition:
- (i) At a minimum, as measured over ambient lighting conditions on a clear night, exterior lighting shall not exceed more than five tenths (0.5) foot-candles above ambient levels along all property lines, and shall not exceed an average illumination level of three (3.0) foot candles nor provide below a minimum of nine tenths (0.9) foot-candles in public parking and pedestrian areas.
  - (ii) The color and design of pole lighting standards shall be compatible with the building and

the City's public lighting in the area, and shall be uniform throughout the entire Development site. The maximum height for all poles shall be twenty-five (25) feet.

- (y) Signage. All exterior signage within the Development shall comply with the provisions of Section 30-19 of this Chapter.
- (z) Noise. Noise associated with activities at the site shall not create a nuisance to nearby properties, and shall comply with applicable City noise requirements.
- (i) Natural Resources Protection. Each Development shall meet all Erosion Control and Storm water Management Standards. In addition, post development runoff rates shall not exceed pre-settlement rates. Maintenance of any storm water detention or conveyance features are solely borne by the developer/owner unless dedicated and accepted by the City. During site plan review, the Planning Commission shall determine if existing nature feature may be integrated into the site design as a site and community amenity.
- (ii) Policy on Vacation of Existing Sites. Where such a building is proposed as a replacement location for a business already located within the City, the City shall prohibit any privately imposed limits on the type or reuse of the previously occupied building through conditions of sale or lease unless specifically approved by resolution of the City Commission.
- (iii) Developer's Agreement. The Developer shall enter into a Development Agreement with the City, which shall include the payment of all utilities including but not limited to storm water, sanitary sewer, and street infrastructure, and the commitment to adhere to the policy on vacation of existing sites as stated above. Off-site improvements may also be required.
- (iv) Outlots. All buildings on outlots shall be of architectural quality comparable to the primary building of the Development as determined by the Planning Commission.
- (18) On-Site Wind Energy Conversion Systems. An on-site wind energy conversion system (WECS) may be permitted as a special exception use provided that:
- (a) Maximum Height. An on-site WECS shall have a maximum height of one-hundred forty (140) feet, measured from the base of the system to the top of the blade in its vertical position.
- (b) Property Setbacks. The distance between an on-site WECS tower and any property line shall be not less than the height of the tower including the top of the blade in its vertical position.
- (c) Location. If located on the same zoning lot with another permitted use, an on-site WECS shall only be allowed within the rear yard.
- (d) Sound Pressure Level Standards. An on-site WECS shall not exceed fifty-five (55) dBA at the property line closest to the on-site WECS. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds fifty-five (55) dBA, the standard shall be ambient dBA plus five (5) dBA.
- (e) Construction Codes and Interconnection Standards.
- (i) An on-site WECS shall comply with all applicable state construction and electrical codes and local building permit requirements.
- (ii) An on-site WECS shall comply with Federal Aviation Administration (FAA) requirements; the Michigan Airport Zoning Act (PA 23 of 1950); the Michigan Tall Structures Act (PA 259 of 1959); and any other State or Federal regulations.
- (iii) An interconnected on-site WECS shall comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.
- (f) Safety Standards.
- (i) An on-site WECS shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over-speeding.
- (ii) An on-site WECS shall be equipped with lightning protection.
- (iii) The minimum vertical blade tip clearance from grade shall be twenty (20) feet for an on-site WECS employing a horizontal axis rotor.
- (iv) All on-site WECS towers must be unclimbable by design or protected by anti-climbing measures such as fences.

- (g) Visual Impact.
  - (i) No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades. However, appropriate warning signs and owner identification may be allowed on buildings or other structures associated with an on-site WECS.
  - (ii) An on-site WECS tower shall be a monopole or monotube construction. Guy wires shall not be permitted as part of the on-site WECS.
  - (iii) An on-site WECS shall be finished in a single, non-obtrusive, non-reflective matte color.
- (h) Illumination. No illumination of the turbine or tower shall be allowed unless required by the FAA.
  - (i) Abandonment. An on-site WECS that has not been operated for a continuous period exceeding six (6) months shall be considered abandoned. The on-site WECS tower and all related facilities shall be removed by the property owner or lessee within six (6) months of being notified by the City of such abandonment. Failure to remove the WECS tower and all related facilities within six (6) months shall be grounds to remove the WECS at the owner's expense.
- (j) Site Plan Required. Plans and specifications for an on-site wind energy conversion system shall be submitted to the Planning Commission in accordance with Section 30-36 and shall include the following:
  - (i) Plans showing the location of proposed turbine towers, underground and overhead wiring, access roads, and all new infrastructure above ground related to the project.
  - (ii) Standard drawings of the wind turbine structure and stamped engineered drawings of the tower, base, footings, and/or foundation as provided by the manufacturer.
  - (iii) Line drawings of the electrical components, as supplied by the manufacturer, in sufficient detail to allow for a determination that the manner of installation conforms to applicable electrical codes.
  - (iv) Certifications that the applicant has complied or will comply with all applicable Local, State and Federal laws and regulations.
- (19) Sexually Oriented Businesses.
  - (a) Licensing and Use Regulations. Such use shall comply with the sexually oriented business licensing and use regulations as outlined in Chapter 5 of the Three Rivers Code of Ordinances, as amended.
  - (b) Site Location.
    - (i) Sexually oriented businesses are prohibited from locating within one thousand five hundred (1,500) feet of a: residential zoning district, existing residential dwelling or use, religious institution or place of worship, school, library, public park or playground, non-commercial assembly hall, public office building, arcade, or licensed day care facility as defined in the Child Care Organizations Act (P.A. 116 of 1973, as amended). Measurement shall be made from the outer most boundaries of the lot or parcel upon which the proposed sexually oriented business will be situated.
    - (ii) A sexually oriented businesses shall not be permitted within a one thousand (1,000) foot radius of an existing sexually oriented business. Measurement shall be made from the outer most boundaries of the lot or parcel upon which the proposed sexually oriented will be situated.
  - (c) Site Development Requirements.
    - (i) The site layout, setbacks, structures, function, and overall appearance shall be compatible with adjacent uses and structures.
    - (ii) Windows, displays, signs, and decorative structural elements of buildings shall not include or convey examples of a sexual nature. All such displays and signs shall be in conformance with this Chapter.
    - (iii) All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent viewing into the interior from any public or semipublic area as determined by the Planning Commission.
    - (iv) No loud speakers or sound equipment shall be permitted to project sound outside of the sexually oriented business.

- (v) A sexually oriented business shall clearly post notification at the entrance to the business, or any portion of the business utilized for adult only use, that minors are excluded.
- (vi) A sexually oriented business shall be located in a freestanding building. A shared or common wall structure or shopping center is not considered to be a freestanding building.
- (d) Conditions and Limitations. Prior to the granting of any permit herein provided, the City Commission may impose any such conditions or limitations upon the location, construction, maintenance or operation of the sexually oriented business, as may in its judgment, be necessary for the protection of the public interest. Failure to follow such limitation or condition will act to immediately terminate any permit or license issued.
- (e) Limit on Re-application. No application for an adult only business that has been denied wholly or in part shall be resubmitted for a period of three hundred sixty-five (365) calendar days from the date of the order of denial, except on the grounds of new evidence not previously considered or proof of a change in conditions from the original request.
- (20) Donation Boxes. Donation Boxes shall be recognized as a special exception use in Business Zoning Districts. The Following requirements shall apply in addition to all other applicable requirements of the City Code.
  - (a) It shall be unlawful for any person to place or maintain, or allow to be placed or maintained, any donation box within the City of Three Rivers, without having first secured a permit and donation box decal in compliance with the provisions of Chapter 30 of this Code.
  - (b) Any donation box located within the jurisdiction of the City that does not have a current, valid permit shall be subject to impoundment by the City. Any donation box impounded by the City shall be released to the owner upon securing a permit, and the payment of impound fees and daily storage fee for each day in City possession after impound.
  - (c) It shall be unlawful for any person or entity that owns, leases, or is entitled to possession of real property within the City, to authorize or allow any donation box to be placed on or remain on such real property without a valid permit obtained in compliance with the provisions of this Chapter.
  - (e) Permit Requirements
    1. A permit to allow a donation box as an accessory use in a business district shall be issued by the City provided the following conditions are satisfied:
      - (i) The entity receiving a permit to place or maintain a donation box is registered to operate in the State of Michigan as a non-profit corporation in good standing with its principal place of business located in St. Joseph County, Michigan, and provide proof that it is a 501(c)(3) organization under the provisions of federal Internal Revenue Code.
      - (ii) The property owner provides written authorization allowing the donation box on the property.
      - (iii) The permit holder shall be responsible to collect the contents of the donation box to prevent overflow.
      - (iv) The visual and structural integrity of the donation box must be maintained continuously.
      - (v) The placement of the donation box shall not impede traffic nor visually impair any motor vehicle operation within a parking lot, driveway or street.
      - (vi) The donation box shall not be located in a required building setback, buffer yard, access easement, drainage easement, floodplain, driveway, utility easement or fire lane.
      - (vii) A minimum of one (1) parking space per donation box shall be required on-site.
      - (viii) Occupation of any parking spaces by the donation box shall not reduce any required parking spaces for the principal use on a lot.
      - (ix) The permit holder placing or maintaining the donation box shall display current contact information including street address and telephone number on the donation box. This information must be readable and clearly visible to the public.
      - (x) The current permit decal for the specific donation box must be affixed and displayed at all times on the outside of the donation box.

- (xi) All signage shall comply with Section 30-19 of this Chapter. For the purposes of on-premises signs, signage visible of the donation box shall be considered an attached sign.
  - (xii) The donation box may only be used as a collection container for clothing, household items or other salvageable personal property. All donation materials must fit into and be placed inside the donation box. The collection or storage of any materials outside the donation box is prohibited.
  - (xiii) The donation box shall be located at least 200 feet away from any residential dwelling.
  - (xiv) The number of donation boxes allowed for each property by a permit holder shall not exceed two (2).
  - (xv) The size of each donation box shall not exceed four (4) cubic yards.
  - (xvi) Each donation box must have an attached sign indicating that all donations must fit into and be placed inside the donation box.
  - (xvii) A separate permit and application shall be required for each donation box regardless of the ownership thereof. Permits issued under the provisions of this Chapter shall be valid only at the address stated in the permit.
  - (xviii) The annual permit fee for a donation box shall be as provided in Chapter 6 of the City Code pertaining to User Fees and Service Charges. All permits shall expire on December 31st of each calendar year regardless of the date of issuance, provided however that the fee for each permit shall be prorated on a monthly basis.
  - (xix) Any applicant denied a permit shall have the right to appeal such action. In such case the procedure shall be the same as in revocation.
2. Transfer of Permit Prohibited. No permit issued under the provisions of this Chapter is transferrable and the authority a permit confers shall be conferred only on the permit holder named therein.
3. Revocation of Permit.
- (i) Grounds. Any permit issued hereunder shall be revoked by the City if the permit holder is in violation of any of the provisions of the City Code or has knowingly made a false material statement in the application or otherwise becomes disqualified for the issuance of a permit under the terms of the City Code.
  - (ii) Notice. Notice of the revocation shall be given to the permit holder in writing, with the reasons for the revocation specified in the notice, served either by personal service of such notice upon the permit holder or by certified United States mail to their last known address. The revocation shall become effective the day following personal service or if mailed, three (3) days from the date of mailing.
  - (iii) Appeal: Hearing. The permit holder shall have ten (10) days from the date of such revocation in which to file notice with the City Clerk of their appeal from the order revoking such permit. The City Manager shall provide for a hearing on the appeal not later than 15 days after the notice of appeal is filed. After holding a hearing on such revocation, the City Manager shall either sustain the revocation of the permit or issue an order reinstating the permit. The decision of the City Manager may be appealed by the permit holder to the Circuit Court for the County of St. Joseph, Michigan.
  - (iv) In the event of the filing of an appeal from a revocation issued under the provisions of this Chapter, then until such appeal has been finalized such revocation order shall be stayed.
  - (v) In the event the permit is finally revoked as provided herein, the entity, firm or organization placing or maintaining the donation box shall remove such donation box from the property not later than 10 days after such final decision.
4. Maintenance and Upkeep. The permit holder and the property owner shall be held jointly and severally liable and responsible for the maintenance, upkeep, and servicing of the donation box and clean up and removal of any donations left on the property outside of the donation

box. The City shall have the authority to abate any violation of this Chapter that is deemed a public nuisance under the procedures contained in Chapter 4 of the City Code.

5. Offense/Penalty.

- (l) A violation of this Section is a municipal civil infraction as prescribed in Chapter 9 of this Code.

(21) Light Industrial Uses. Light industrial uses including wholesale and retail trade of large volume, bulk commercial storage and warehousing, and light industrial development under the following conditions:

- (a) Use Limitations. Uses shall be limited to those which can comparably exist adjacent to commercial and lower intensity users.
- (b) Nuisance Prohibited. Industrial uses shall be conducted so as to not create a nuisance or negatively impact adjacent properties by reason of noise, odors, smoke, fumes, vibration or any other reason or condition.

(22) Solar Farms. Businesses that deal with solar energy and solar energy conversion, and are intended for energy production with the following conditions:"

- (a) Minimum Acreage – Solar farms shall be located on a parcel of at least five (5) acres.
- (b) Lot Coverage. The surface area of ground-mounted systems in combination with driveways, structures and other impervious surfaces on the parcel shall not exceed the maximum lot coverage percentage of the applicable zoning district.
- (c) Setbacks. All solar farms shall comply with the principal structure setback and lot coverage requirements for the applicable zoning district in which they are located.
- (d) Road Setbacks. Solar farms shall have road setbacks of a minimum of 200 feet from the centerline or 150 feet from the right-of-way of arterial streets, whichever is greater.
- (e) Use of Public Roads. The applicant shall obtain all necessary approvals from the appropriate road authority for site access and driveways.
- (f) Height. Ground-mounted solar energy systems shall not exceed fifteen feet (15') in height. Also, any building-integrated solar energy systems shall not exceed the maximum building height permitted in the zoning district. Commercial applicants requiring solar energy panels and related systems equipment in excess of fifteen (15) feet may apply for a variance. Also refer to vertical profile site plan requirements in this section; below (j).
- (g) Screening. Solar farms shall be screened from view from the public right of way to the extent possible by setbacks, berming, existing vegetation, landscaping, or a combination thereof.
- (h) Prohibited Areas. The City prohibits solar farms within the following areas:
- i. within five hundred (500) feet of river banks
  - ii. within five hundred (500) feet of wetlands (to the extent required by Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act; formerly the Geomare-Anderson Wetlands Protection Act [PA 203] of 1979)
  - iii. within five hundred (500) feet of areas designated or formally protected from development by Federal, State or County agencies as wildlife habitat, wildlife management areas, or other similar land or corridor designations
- (i) Stormwater (when applicable). Solar farms are subject to stormwater management and erosion and sediment control best practices and NPDES permit requirements, and shall obtain required permits from the MDEQ, County, County/Watershed Conservation District (if applicable), the City and others.
- (j) Site Plan Requirements. In addition to items required under regular site plan requirements detailed in Section 30-36 of this Chapter:
- i. Existing Site: The applicant for a solar farm shall submit a detailed site plan of existing conditions, showing site boundaries; existing access roads, driveways, and easements; existing structures; setbacks; surface water drainage patterns, floodplains, delineated wetlands, ordinary high water mark and other protected natural resources; existing vegetation, soil types, and topography (2-foot contour intervals).
  - ii. Proposed Site: The applicant shall also submit a site plan of proposed conditions, including the proposed number, location and spacing of solar panels; proposed height of panels; location of access roads; planned location of underground or overhead electric lines

connecting the solar farm to the building, substation or other electric load; new electrical equipment other than at the existing building or substation that is the connection point for the solar farm; proposed stormwater management facilities; proposed erosion and sediment control measures, and other information as required by the City. The Proposed Site Plan shall include a graphic scale not less than 1: 100 and a north arrow.

- iii. **Vertical Profile.** The applicant shall also include a vertical sketch elevation of the premises accurately drawn to a scale identified on the drawing, depicting the proposed solar energy conversion system. The sketch shall depict the proposed system's relationship to structures on adjacent lots within 150 feet of the parcel boundary (if any). The sketch elevation shall include a graphic scale not less than 1:50, or as needed to clearly show the vertical relationship between the proposed solar facilities and structures on adjacent lots.
- (k) **Glare Study** – All solar farm facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties, as well as adjacent street rights-of-way. Steps to control glare nuisance may include selective placement of the system, screening on the side of the solar array facing the reflectors, reducing use of the reflector system, or other remedies that limit glare. Solar farms utilizing a reflector system shall conduct a glare study to identify the impacts of the system on occupied buildings and transportation rights-of-way within a half mile of the project boundary. The glare study shall also address aviation impacts.
- (l) **Structural Engineering.** The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.
- (m) **Security.** A clearly-visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. All mechanical equipment, including any structure for batteries or storage cells, shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate, and provided with screening in accordance with the landscaping provisions of the Development Code.
- (n) **Interconnectivity.** Power and communication lines that are not defined in this ordinance as Essential Services and running between banks of solar panels and to electric substations or interconnections with buildings that are on adjacent parcels shall be buried underground. Exemptions may be granted by the City in instances where shallow bedrock, water courses or other elements of the natural landscape interfere with the ability to bury lines, or the distance to a substation or other point of interconnection reasonable precludes burial.
- (o) **Connection Agreement.** The applicant shall complete a connection agreement with a local utility and provide a copy of the agreement to the City before approval of electrical, building, or other required permits. The system operator shall provide a visible external disconnect if required by the utility.
- (p) **Liability Insurance.** The applicant shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate, and provide proof that it meets the insurance requirement to the city.
- (q) **Decommissioning Plan.** The applicant shall submit a decommissioning plan to ensure that facilities are properly removed after their useful life. If the solar energy system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation, and a plan ensuring financial resources will be available to fully decommission the site. The City may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure decommissioning.
- (r) **Decommissioning.** If the solar energy system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after obtaining a demolition permit. Removal includes the entire structure including transmission equipment.
- (s) **State Jurisdiction.** Solar farms which have a generating capacity exceeding 1% of the in-state peak load or 150 kilowatts of power shall fall under state jurisdiction through the Michigan Public Service Commission (MPSC).
- (t) **National and State Compliance.** Solar farms shall be in compliance with any applicable local, state and federal regulatory standards, including the State of Michigan Uniform Building Code, as amended; the National Electric Code, as amended; the State Plumbing Code, as amended; the Michigan Energy Code, as amended.

**(SECTION 22: Ord. 825; 7-3-2018)**

- (23) Parolee Group Home ("PGH") means a building together with its permitted accessory buildings and structures which is inhabited by no more than ten (10) persons who are parolees from a Michigan Correctional Facility may be permitted as a Special Exception Use in a B-2 General Business District provided that:
- (a) The minimum setback for side yards is increased to fifty (50) feet except that existing structures with less than a fifty (50) foot side yard setback may be approved by the Planning Commission provided the side yard is adjacent to a public park or similar open space area.
  - (b) A screening area may be required along the perimeter of the PGH if deemed to protect the values of adjoining properties under separate ownership.
  - (c) A PGH shall be provided with outdoor open spaces of not less than seventy (70) square feet for each parolee.
  - (d) No activity shall be conducted upon or from the PGH that would constitute a nuisance or annoyance to the occupants of adjoining residential properties by reason of noise, smoke, odor, or electrical disturbance originating from the PGH. The source of lighting from the interior or exterior of the PGH shall not be discernible beyond the boundaries of the PGH.
  - (e) All residents of a PGH excepting, staff employed by the owner/operator, shall be parolees supervised by an agent of the Michigan Department of Corrections. The name and contact information of the parolee agent of each resident parolee shall be reported to the City's Chief of Police at the time the parolee is admitted to the PGH. On the first business day of each month, the owner/ operator of each PGH shall provide a current list of all parolee occupants of the PGH to the City Manager and City Police department.
  - (f) The PGH shall be staffed twenty-four (24) hours per day, seven (7) days per week. The names and contact information of each PGH staff member shall be provided to the City Police Department.
  - (g) A complete camera security system shall be in operation at all time at the PGH.
  - (h) A copy of all contracts and contractual requirements between the owner/operator of the PGH and the Michigan Department of Corrections pertaining to the group homes for parolees at the PGH shall be provided to the City Clerk prior to the occupancy of the PGH, together with any subsequent changes or amendments.
  - (i) The owner/operator of the PGH shall at all times remain in full compliance with the provisions of Section 30-34 (A) of the City Code pertaining to the general requirements for the maintenance of a Special Exception Use.
  - (j) Officers of the City's Police Department and persons assigned by the City Manager may inspect the PGH at any time, with or without notice, to the owner/operator of the PGH.
  - (k) To protect the public health, safety, and general welfare, the Planning Commission shall specify, if it recommends to the City Commission the granting of a Special Exception Use Permit to an owner/operator of a PGH the conditions, limitations and requirements which are contingent to the granting of the Permit.
  - (l) After the approval of a Special Exception Use Permit by the City Commission, the owner/operator of the proposed PGH can apply to the City Clerk, on forms provided by the City Clerk, for a license to operate the PGH. The City Clerk shall issue a license to the PGH owner/operator after certification by the City Manager that the owner/operator is in full compliance with this Section and all other applicable provisions of the City Code. The license fee shall be \$2,000.00 and may be renewed annually for \$2,000.00 if the owner/operator of the PGH remains in compliance with the Special Exception Use Permit.
  - (m) The maximum number of PGH Special Exception Use Permits and licenses to operate a PGH shall not exceed one (1) at any time.
  - (n) The provisions of Chapter 13 of the City Code entitled Rental Housing Code shall apply to Parolee Group Homes unless a particular provision of Chapter 13 conflicts with or contravenes the provisions of Chapter 30 of the City Code pertaining to Parolee Group Homes, in which case the provisions of Chapter 30 shall apply.
  - (o) The City Manager may revoke a PGH license if the owner/operator has failed to comply with any of the provisions of Chapter 13 or 30 of the City Code pertaining to Parolee Group Homes or the terms and conditions of the PGH, the Special Exception Use Permit or the license to operate the PGH issued to the owner/operator by the City. Prior to revoking a PGH license, the City Manager shall cause a written notice of intention to revoke the PGH license to be delivered to an owner/operator

not less than fifteen (15) days prior to the proposed effective date of the revocation. The notice shall be sent by the City Manager by certified mail, return receipt requested, and/or by personal service, to the owner/operator at the address of the owner/operator on PGH license. Upon revocation of a license by the City Manager, the owner/operator may appeal the decision to the City Commission. All appeals shall be filed with the City Clerk for submission to the City Commission within ten (10) days following the revocation of a license by the City Manager. The decision of the City Commission shall be final.

- (p) No PGH shall be located closer than one thousand (1,000) feet to any school, childcare home, public library, park, hospital, any other type of group housing, domestic assault shelter or a business where alcoholic beverages are sold or consumed.
- (q) If any owner/operator of the PGH has failed to pay any one or more of the following debts or obligations to the City by its due date shall be cause for the revocation of the Special Exception Use Permit and the license issued by the City to operate the PGH:
  - (1) Real property taxes;
  - (2) Special assessments;
  - (3) Water and/or sewer bills;
  - (4) Fines, fees and penalties or debts of any sort arising from the provisions or enforcement of provisions of Chapter 30 of the City Code pertaining to Parolee Group Homes.

**(SECTION 23: ORD. 827; 2-5-2019)**

(24) Marihuana Facilities. The following requirements shall apply in addition to all other applicable requirements of the City Code.

- (a) No marihuana facility shall be established (or planned) without a Special Exception Use permit.
- (b) A marihuana facility shall be located in the Business & Industrial Zoning Districts of the City, as defined in Chapter 31 of this Code.
- (c) Application and license fees for marihuana facilities shall be in accordance with Chapter 31 of this Code.
- (d) Each marihuana facility shall be licensed by the State, as described in Chapter 31 of this Code.
- (e) The City Commission shall determine whether or not a proposed marihuana facility use complies with Chapter 31 to ensure the compatibility with the zoning district in which the proposed facility is located and the health, safety and general welfare of the area will not thereby be impaired.

**(SECTION 24: ORD 847; 5-18-2021)**

**30-35 VARIANCES AND APPEALS.**

(A) Purpose. The purpose of this Section is to provide for: (a) an appeal process when it is alleged that there is an error in any order, requirement, decision, or determination by an administrative officer, board or commission in the enforcement of this Chapter; (b) variances from the literal provisions of this Chapter in instances where strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration; and (c) the granting of variances only when it is demonstrated that a variance will be in keeping with the spirit and intent of the Chapter.

(B) Creation and Membership.

- (1) A Zoning Board of Appeals is hereby established which shall consist of seven (7) members to be appointed by the City Commission each for a term of three (3) years. One member of the Planning Commission and one member of the City Commission may be a member of the Zoning Board of Appeals. Board appointments shall follow the requirements of Public Act 110 of 2006, as amended.
- (2) Terms of office shall be three (3) years except for those members who may serve from the Planning Commission or City Commission, whose terms shall be limited to the time they are members of those bodies.
- (3) A successor shall be appointed not more than one (1) month after the term of the proceeding member has

expired.

- (4) Members of the Zoning Board of Appeals may be removed from office by the City Commission for cause upon written charges and after a public hearing.
- (5) Vacancies shall be filled by the City Commission for the unexpired term of the member affected.

(C) Rules of Procedure.

- (1) Rules and Regulations. The Board shall adopt rules and regulations necessary for the conduct of its affairs and in keeping with the provisions of this Chapter. Copies of the rules and regulations shall be made available to the public in the Office of the City Clerk.
- (2) Meetings; Minutes of the Board. Meetings of the Board shall be held at times selected by the Board. The time and place of regular meetings shall be specified in the rules and regulations and all meetings shall be open to the public.

The Board shall keep minutes of its proceedings, showing the action of the Board and the vote of each member upon each question, or if absent or failing to vote, indicating the fact. The Board shall keep a record of its determinations and other official actions which, together with the minutes of its meetings, shall be filed promptly in the Office of the City Clerk and shall be a public record.

- (3) Hearings; Appeals; Notice. Appeals to the Board concerning interpretations or administration of this Chapter may be taken by any person aggrieved or by any officer or body of the City affected by any decision of the administrative official or body. Written requests for a hearing shall be filed with the City Clerk specifying the grounds for the appeal. Following the receipt of a written request, the Zoning Board of Appeals shall fix a reasonable time, not to exceed sixty (60) days, for the hearing of the request. The Zoning Administrator shall transmit to the Board all papers constituting the record which led to the administrative action.

- (D) Powers and Duties of the Zoning Board of Appeals. The Board shall hear and decide appeals from and review any order, requirements, decision, or determination made by an administrative official or body charged with the enforcement of this Chapter. Appeals with regard to Special Exception Uses and Planned Unit Development decisions may be taken to the Board only as provided in this Chapter.

The Zoning Board of Appeals shall have the following powers and duties:

- (1) Administrative Review. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official or body in the enforcement of this Chapter.
- (2) Variances; Conditions Governing Applications, Procedures. To authorize upon appeal in specific cases a variance from the terms of this Chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Chapter would result in practical difficulty. A variance from the terms of this Chapter shall not be granted by the Board unless and until all the following steps are met:
  - (a) A written application for a variance is submitted to the City Clerk, together with the required fee, demonstrating all of the following:
    - (i) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district;
    - (ii) That literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter.
    - (iii) That the special conditions and circumstances do not result from the actions of the applicant;
    - (iv) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, structures, or buildings in the same zoning district.
  - (b) The public hearing shall be duly noticed in a newspaper circulated within the City, and by a similar notice to the applicant, persons to whom real property within three hundred (300') feet of the boundaries of the subject property is assessed, and to the occupants of all dwellings within three hundred (300') feet regardless of whether the property or structure is located within the City of Three Rivers. The notice shall be given not less than fifteen (15) days before the date of such hearing. The notice shall be delivered personally or by mail addressed to the respective owners and tenants at the addresses given on the last City assessment roll in the case of owners, or on the

City's rental housing registration roll in the case of tenants. If a tenant's name is not known, the term "occupant" may be used. If the request does not involve a specific parcel of property, notice shall only be published in a newspaper circulated within the City and to the applicant within the time period noted above.

- (c) A public hearing shall be held on the application for each variance. Any interested party may appear in person, by agent, or by attorney. Upon the day for hearing any application or appeal, the Board may adjourn the hearings in order to permit the obtaining of additional information, or to cause further notice, as the Board deems proper, to be served upon other property owners and occupants as the Board decides may be interested parties. In the case of an adjourned hearing, persons previously notified and persons already heard need not be noticed of the time of resumption of the adjourned hearing unless the Board so orders.
  - (d) No variance shall be granted unless the Board of Appeals shall find that the requirements of Section 30-35(D)(2)(a) of this Chapter have been met by the applicant for a variance.
  - (e) No variance shall be granted unless the Board of Appeals shall further make a finding that the reasons stated in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
  - (f) Prior to granting a variance, the Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
  - (g) No non-conforming use of the neighboring lands, structures, or buildings in the same zoning district, and no permitted or non-conforming use of lands, structures, or buildings in other zoning district shall be considered grounds for the issuance of a variance.
  - (h) In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of conditions and safeguards when made a part of the terms under which the variance is granted shall be deemed a violation of this Chapter and punishable under Section 1-5 of the City Code.
- (3) Board has Powers of Administrative Official or Body on Appeals; Reversing Decision of Administrative Official or Body. In exercising its powers, the Board of Appeals may, so long as the Board's actions are in conformity with the terms of this Chapter, reverse or affirm, wholly or partly, or may modify any order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the administrative official or body from whom the appeal is taken.
- (4) Use Variance Prohibited. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permitted under the terms of this Chapter in the zoning district involved, or any use, expressly or by implication, prohibited by the term of this Chapter in the zoning district involved.
- (E) Decisions of the Board. The Board of Appeals shall decide all applications and appeals within thirty (30) days after its final hearing on the application or appeal. A copy of the Board's decision shall be transmitted to the applicant and the administrative official or body affected by the decision, and a third copy shall be filed with the City Clerk.
- (F) Stay of Proceedings. An appeal to the Board of Appeals shall stay all proceedings in furthermore of the action appealed from unless the administrative official or body from whom the appeal is taken certifies to the Board, after the application of appeal is filed, that by reason of facts stated in the certificate a stay would in the opinion of the officer or body cause imminent peril to life or property; in which case, proceedings shall not be stayed without a restraining order which may be granted by the Board of Appeals or by the St. Joseph County Circuit Court.
- (G) Any person having an interest affected by the provisions of this Chapter may appeal to Circuit Court, as provided by Public Act 110 of 2006, as amended.

### 30-36 SITE PLAN REVIEW.

- (A) Before any building permit shall be issued, the applicant or his or her agent shall submit to the City Clerk a site plan which must show that the application complies in all respects with this Chapter. The site plan and exhibits shall be referred to the Planning Commission for approval, approval with conditions, or rejection. No building permit shall be issued until a site plan has been approved or approved with conditions by the Planning Commission.

The following buildings, structures, or uses shall be exempt from site plan review and procedure provided, however, that all other applicable provisions of the City Code are complied with:

- (1) Single or two-family homes under separate ownership of an individual and separate lot for each home.

- (2) Interior accessory and subordinate buildings, and additional buildings or structures similar to those previously existing upon an individual site which require no new or additional means of access from adjoining public roads or highways, or required no new or additional City utility connections, or require no new or additional off-street parking.
  - (3) Projects involving the expansion, remodeling or enlargement of existing buildings which require no new or additional means of access from adjoining public roads or highways which require no new or additional City utility connections or require no new or additional off-street parking.
  - (4) Uses, buildings and structures, and special exception uses which must meet their own review standards and procedural requirements under other provisions of this Chapter such as planned unit developments and mobile home parks.
- (B) Every site plan submitted to the City shall be in accordance with the requirements of this Chapter.
- (C) Any person may file a request for a site plan review by the City, provided the subject property is properly zoned for the intended use, by filing with the City Clerk the completed application upon approved forms together with the required fee at least three (3) weeks prior to a regular meeting of the Planning Commission. As an integral part of the application, the applicant shall file at least fifteen (15) copies of a site plan which shall conform to the following minimum requirements:
- (1) The scale of the site plan shall be not less than one inch (1") equals fifty (50') feet if the subject property is less than three (3) acres and one inch (1") equals one hundred (100') feet if three (3) acres or more, and of such accuracy that the plan can be readily interpreted.
  - (2) The property shall be identified by lot lines and locations including dimensions, angles or bearing and area correlated with the legal description of the property. The site plan shall be designed and prepared by a recognized land planner, registered architect, registered landscape architect, registered professional engineer, or registered land surveyor. The plan shall further include the name and address of property owners, developers, and designers.
  - (3) The site plan shall show the scale, north-point, boundary lines and all existing natural features including woodlots, streams, rivers, lakes drains and similar features.
  - (4) The site plan shall show existing man-made features including buildings, structures, high tension towers, pipe lines, existing utilities, excavations, bridges, culverts, drains and easements and shall identify adjacent properties and their existing uses.
  - (5) The site plan shall show the location, proposed finished floor and grade line elevations, size of proposed main and accessory buildings, their relation to one another and to any existing structures on the site, the height of all buildings and the percentage of lot coverage of all main buildings. In the case of multiple-family developments, the site plan shall include a density schedule showing the number of dwelling units per acre, including a dwelling schedule showing the unit type and number of each unit type, and also a parking schedule showing parking spaces per dwelling unit.
  - (6) The site plan shall show the proposed streets, driveways, sidewalks and other vehicular and pedestrian circulation features within and without the site, the location, size and number of parking spaces in the off-street area, the identification of service lanes and service parking, the width, depth, type and curbing for all streets, parking lots, sidewalks and other paved surfaces, proposed pavement markings, traffic control signage, location of designated fire lanes and location of loading areas.
  - (7) The site plan shall show the proposed location, use and size of open spaces and the location, dimensions, construction materials, and cross-section of any proposed fences, walls, or berms on the site. Any proposed alterations to the topography and other natural features shall be indicated.
  - (8) The site plan shall show surface water drainage for the site, proposed sanitary sewage disposal, proposed water supply system, and proposed easements and rights-of-way. Volume usages should be included for the abovementioned utilities.
  - (9) The site plan shall include an exterior lighting plan with all existing and proposed lighting locations, heights from grade, specifications, lamp types and methods of shielding.
  - (10) The site plan shall show waste receptacle locations, transformer pad locations, and the locations of other ground level utility and mechanical equipment and proposed methods of screening.
  - (11) The site plan shall include building façade elevations, drawn to an appropriate scale and indicating type and color of building materials, roof design, projections, awnings, window openings, entrance features, doors, and any building-mounted mechanical equipment.
  - (12) The site plan shall include a landscape plan, including location, size, quantity and type of proposed shrubs, trees, ground cover and other live plant materials, the location, and size and type of any existing plant

materials that will be preserved. The landscaping plan shall include a planting list for proposed landscape materials with quantity, caliper-size and height of material, botanical and common names, and method of installation. The landscaping plan shall also include a maintenance plan, to include notes regarding irrigation and replacement of dead or diseased plant materials.

- (13) The site plan shall show existing and proposed topography at a minimum of two (2) foot contour levels, drainage patterns and a general description of grades within 100 feet of the site to indicate storm water runoff.
  - (14) The site plan shall include other information as requested by the Planning Commission to verify that the site and use are in accordance with the spirit and intent of this Ordinance, and the City's Master Plan.
  - (15) The Planning Commission may waive any of the above required site plan information, when such concerns are obviously not pertinent to the proposed development.
- (D) Upon receipt of the application and the plans, the following action will occur:
- (1) The City Clerk shall record the date of the receipt of the application and site plan, and transmit all copies of the site plan to the Zoning Administrator. The Zoning Administrator shall review the site plan to ensure that the information requirements of this Section have been satisfied. A site plan considered incomplete by the Zoning Administrator shall be returned to the applicant. A complete site plan shall then be forwarded to the Planning Commission for review, and shall be distributed to other appropriate City officials and consultants for review.
  - (2) A hearing shall be scheduled at the next regular meeting of the Planning Commission for the review of the application and plans as well as the recommendations of the appropriate City officials. Members of the Planning Commission shall be delivered copies of the site plan prior to the hearing for their preliminary information and study.
  - (3) The applicant shall be notified of the date, time and place of the hearing on the application not less than three (3) days prior to the hearing date.
  - (4) Following the hearing, the Planning Commission shall approve, disapprove, modify or alter the proposed site plan in accordance with the purpose of the site plan review provisions of this Chapter and in compliance with the City Code. Any recommended modification or alteration shall be stated in writing, together with the reasons therefore. The Planning Commission may either recommend approval of the plans contingent upon the required alterations or modifications, if any, or may require a further review after the required alterations or modifications have been included in the proposed plans for the applicant.
  - (5) Upon approval, or approval with modifications or conditions, the approval together with the date thereof and the signature of the Zoning Administrator shall be placed on three (3) copies of the site plan with one (1) copy for each the applicant, Building Official and City Clerk.
- (E) In reviewing the application and site plan and approving, disapproving, or modifying the same, the Planning Commission shall be governed by the following standards:
- (1) There is a proper relationship between the existing streets and highways within the vicinity and proposed deceleration lanes, service drive, entrance and exit driveways and parking areas to insure the safety and convenience of pedestrian and vehicular traffic.
  - (2) That the buildings and structures proposed to be located upon the premises are so situated as to minimize adverse effects therefrom upon owners and occupants of adjacent properties.
  - (3) That as many features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood.
  - (4) That any adverse effects of the proposed development and activities emanating therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing, landscaping, setback and location of buildings, structures and entryway to the proposed development.
  - (5) That the layout of building and improvements will minimize any harmful or adverse effect which the development might otherwise have upon the surrounding neighborhood.
  - (6) That all provisions of this Chapter are complied with unless an appropriate variance therefrom has been granted by the Zoning Board of Appeals.
- (F) The approval by the City of any site plan under this provision shall expire one (1) year after the date of the approval unless actual construction and development have been commenced in accordance with the approved site plan prior thereto.

If the construction and development are commenced within one (1) year period, then the approval shall continue for a

period of five (5) years from the date of commencement of construction provided, however, that a lapse of more than one (1) year of continuous substantial construction and development does not occur, in which event, the approval shall expire. The Building Official shall not issue a building permit for any type of construction on the basis of the approved site plan after an approval has expired.

- (G) Any substantial modification, revision or variation in the site plan submitted to the Building Official in conjunction with an application for a building permit from the site plan approved by the City shall be subject to a site plan review under the provisions of Section 30-36(C) and (D).
- (H) The Building Official shall not issue a certificate of occupancy until it has been developed in accordance with the approved site plan.
- (I) Performance Bond. The City may require the developer to file with the Building Official at the time of application for a building permit a performance bond or bank letter of credit in such amounts as may be determined by the City to insure the development of the site in accordance with the approved plans, conditioned upon such proper construction and development. The bond, if required, shall continue for the duration of the construction and development of the site and shall be in a face amount which is a reasonable percentage of the estimated total cost of construction and securing the completion of improvements considered necessary to protect natural resources or the health, safety and welfare of the residents of the City and adjacent residents and property owners. The City shall provide for the rebate of any cash bond filed in this connection in reasonable proportion to the ratio of the work completed on the improvement for which the bond was required.
- (J) Application Fee Required. No application shall be considered by the City until the petitioner or applicant shall have paid the appropriate fee to the City Clerk, as set forth in Section 6-3 of Chapter 6 of this Code.

### 30-37 ADMINISTRATION AND ENFORCEMENT

- (A) Building Permits and Certificates of Zoning Compliance.
  - (1) Administration and Enforcement. The Zoning Administrator shall administer and enforce this Chapter and shall work in conjunction with the Building Official. If the Zoning Administrator shall find that any of the provisions of this Chapter are being violated, the Zoning Administrator shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of illegal work being done; or shall take any other action authorized by this Chapter to ensure compliance with or prevent violation of its provisions.
  - (2) Building Permits Required. No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Building Official. No building permit shall be approved except in conformity with the provisions of this Chapter as determined by the Zoning Administrator unless:
    - (a) The Zoning Administrator's decision is overturned by the Zoning Board of Appeals in the form of an administrative review or variance as provided by this Chapter; or
    - (b) The request for a permit conforms to special conditions as duly authorized under site plan review, planned unit development, or special exception uses as provided for in this Chapter.
  - (3) Application for Building Permit. Application for building permit shall be made to the Building Official. All applications for building permits shall be accompanied by plans in duplicate containing such information as, in the opinion of the Building Official and Zoning Administrator, may be required to determine conformance with the provisions of this Chapter. Information which may be required includes, but is not limited to: plans drawn to scale; actual dimensions and shape of the lot to be built upon; exact sizes and locations on the lot of buildings already existing; location and dimensions of the proposed building or alteration; existing or proposed use of building and land; number of residential units to be housed; location and description of fences, signs, or other structures or conditions existing on the lot.
  - (4) Certificates of Compliance for New, Altered, or Non-Conforming Structures and Uses. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure, as provided for by a duly authorized building permit, until a certificate of occupancy shall have been issued by the Building Official.

Issuance of the certificate of occupancy shall indicate that the completed structure and proposed use conform to the requirements of this Chapter.

No non-conforming structure or use shall be changed or extended until a certificate of zoning compliance shall have been issued by the Zoning Administrator. The certificate of zoning compliance shall state specifically where the non-conforming use differs from the provisions of this Chapter.

- (5) Penalty. Whoever violates any of the provisions of this Chapter shall be punished as prescribed in Chapter 1 of this Code.

In addition, any improper or incorrect installation, operation, maintenance or use of a swimming pool shall also constitute a nuisance, and the City may abate the nuisance by means of court action.

- (6) Fees. Application fees as may be required by this Chapter shall be set from time to time by Resolution of the City Commission.

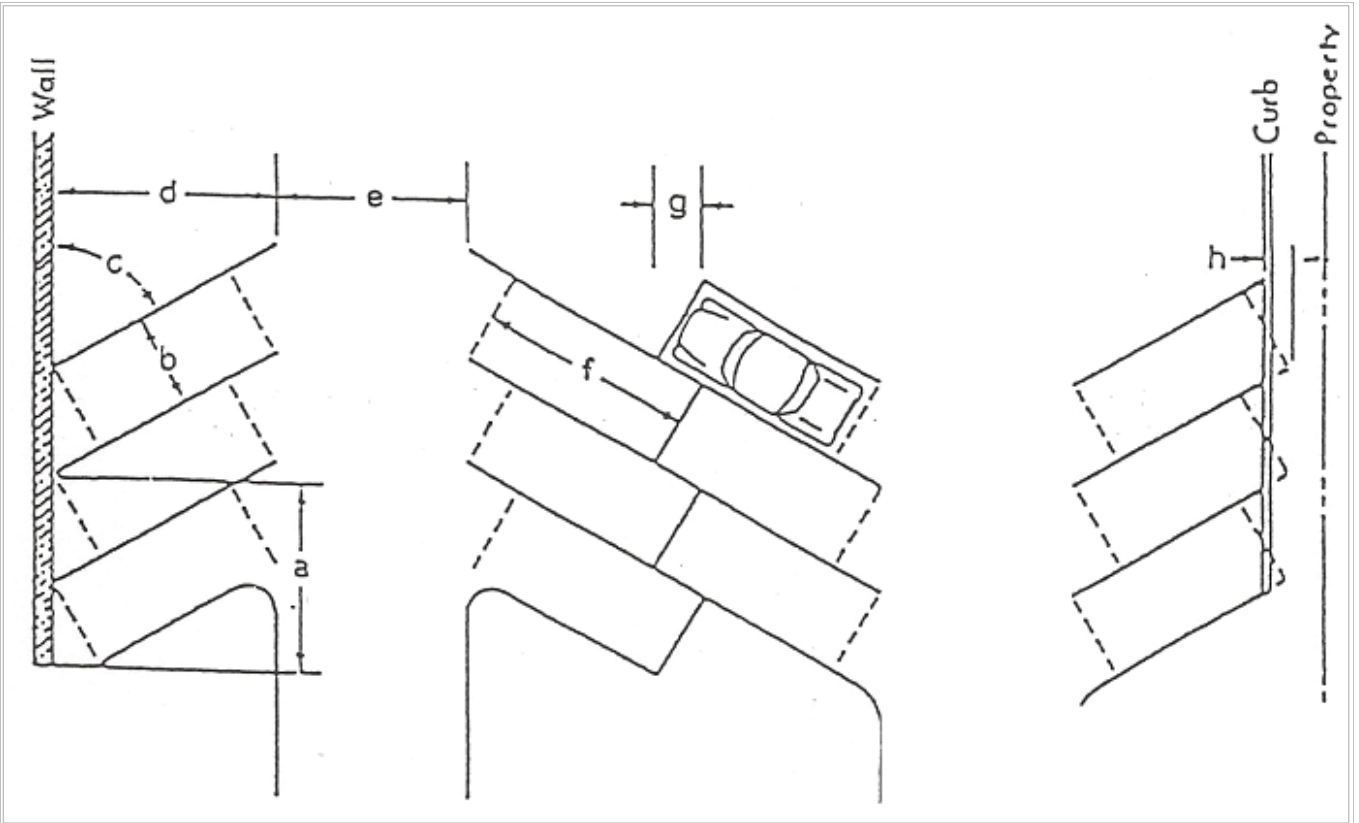
CHART 1 - PARKING LOT DIMENSIONS TABLE  
OFF-STREET PARKING REQUIREMENTS 30-17

| Angle of Parking | Stall Width | Curb Length per Car | Stall Depth | Aisle Width |
|------------------|-------------|---------------------|-------------|-------------|
| 0°               | 8'6"        | 23'0"               | 8'6"        | 12'0"       |
|                  | 9'0"        | 23'0"               | 9'0"        | 12'0"       |
|                  | 9'6"        | 23'0"               | 9'6"        | 12'0"       |
|                  | 10'0"       | 23'0"               | 10'0"       | 12'0"       |
| 20°              | 8'6"        | 24'11"              | 14'6"       | 11'0"       |
|                  | 9'0"        | 26'4"               | 15'0"       | 11'0"       |
|                  | 9'6"        | 27'10"              | 15'6"       | 11'0"       |
|                  | 10'0"       | 29'3"               | 15'11"      | 11'0"       |
| 30°              | 8'6"        | 17'0"               | 16'11"      | 11'0"       |
|                  | 9'0"        | 18'0"               | 17'4"       | 11'0"       |
|                  | 9'6"        | 19'0"               | 17'10"      | 11'0"       |
|                  | 10'0"       | 20'0"               | 18'3"       | 11'0"       |
| 40°              | 8'6"        | 13'3"               | 18'9"       | 12'0"       |
|                  | 9'0"        | 14'0"               | 19'2"       | 12'0"       |
|                  | 9'6"        | 14'10"              | 19'6"       | 12'0"       |
|                  | 10'0"       | 15'8"               | 19'11"      | 12'0"       |
| 45°              | 8'6"        | 12'0"               | 19'5"       | 13'6"       |
|                  | 9'0"        | 12'9"               | 19'10"      | 13'0"       |
|                  | 9'6"        | 13'5"               | 20'2"       | 13'0"       |
|                  | 10'0"       | 14'2"               | 20'6"       | 13'0"       |
| 50°              | 8'6"        | 11'2"               | 20'0"       | 12'6"       |
|                  | 9'0"        | 11'9"               | 20'5"       | 12'0"       |
|                  | 9'6"        | 12'5"               | 20'9"       | 12'0"       |
|                  | 10'0"       | 13'2"               | 21'0"       | 12'0"       |
| 60°              | 8'6"        | 9'10"               | 20'9"       | 18'6"       |
|                  | 9'0"        | 10'5"               | 21'0"       | 18'0"       |
|                  | 9'6"        | 11'0"               | 21'3"       | 18'0"       |
|                  | 10'0"       | 11'6"               | 21'6"       | 18'0"       |
| 70°              | 8'6"        | 9'0"                | 20'10"      | 19'6"       |
|                  | 9'0"        | 9'8"                | 21'0"       | 19'0"       |
|                  | 9'6"        | 10'2"               | 21'3"       | 18'6"       |
|                  | 10'0"       | 10'8"               | 21'3"       | 18'0"       |
| 80°              | 8'6"        | 8'8"                | 20'3"       | 24'0"       |
|                  | 9'0"        | 9'2"                | 20'4"       | 24'0"       |
|                  | 9'6"        | 9'8"                | 20'5"       | 24'0"       |
|                  | 10'0"       | 10'3"               | 20'6"       | 24'0"       |
| 90°              | 8'6"        | 8'6"                | 20'0"       | 24'0"       |
|                  | 9'0"        | 9'0"                | 20'0"       | 24'0"       |
|                  | 9'6"        | 9'6"                | 20'0"       | 22'0"       |
|                  | 10'0"       | 10'0"               | 20'0"       | 22'0"       |

This table pertains to a wall to wall situation. In calculating dimensions, two feet (2') may be subtracted from each stall depth for each overhang and overlap. No subtraction for overlap is allowed for angles greater than sixty degrees (60°). Also refer to corresponding diagram in Chart 2.

**CHART 2 - DIAGRAM OF PARKING LOT DIMENSIONS**  
**OFF-STREET PARKING REQUIREMENTS 30-17**

This diagram pertains to a wall to wall situation. In calculating dimensions, two feet (2') may be subtracted from each stall depth for each overhang and overlap. No subtraction for overlap is allowed for angles greater than sixty degrees (60°). Refer to corresponding table in Chart 1.



- |                         |                  |
|-------------------------|------------------|
| a - Curb length per car | e - Aisle width  |
| b - Stall width         | f - Stall length |
| c - Angle of parking    | g - Overlap      |
| d - Stall depth         | h - Overhang     |

**CHART 3 - SCHEDULE OF REGULATIONS 30-20**  
**SCHEDULE LIMITING HEIGHT, BULK, DENSITY & AREA BY ZONING DISTRICT**

| Zoning District   | General Uses Permitted                      | Minimum Lot Size: Area Per Unit Width / Depth (Sq. Ft. / Ft. / Ft.) | Maximum Height: (Stories / Feet) (8) | Minimum Yard Setback: Front / Side / Rear (Feet) (1), (2), (3), (9) | Minimum Floor Area Per Unit (Sq. Ft.) |
|---|---|---|--------------------------------------|---|---------------------------------------|
| R1 Single Family Residential                            | Single Family                               | 12,000 x 80 x 120   | 2 1/2 / 30                           | 30 x 10 x 25  | 1,200                                 |
| R2 Single Family Residential                            | Single Family                               | 8,400 x 60 x 110  | 2 1/2 / 30                           | 30 x 10 x 25  | 850                                   |
| R3 Single Family Residential and Two Family Residential | Single Family                               | 6,250 x 60 x 100  | 2 1/2 / 30                           | 25 x 10 x 25  | 850                                   |
|   | Two Family                                  | 4,200 x 75 x 100  | 2 1/2 / 30                           | 25 x 10 x 25  | 850                                   |
| R4 Medium Density Residential                           | Single Family                               | 6,250 x 60 x 100  | 2 1/2 / 30                           | 25 x 10 x 25  | 850                                   |
|   | Two Family                                  | 4,200 x 75 x 100  | 2 1/2 / 30                           | 30 x 10 x 25  | 450                                   |
|   | Multi Family                                | 4,200 x 100 x 100   | 3 / 36                               | 35 x 15 x 25  | 450                                   |
| R5 High Density Residential                             | Multi Family                                | 3,000 x 100 x 120   | 4 / 48                               | 35 x 20 x 25  | 450                                   |
| R-MH Mobile Home  | See District Requirements at Section 30-26  |   |                                      |   |                                       |
| B-1 Neighborhood Business                               | Business                                    | 8,400 x 60 x 110  | 2 1/2 / 30                           | 30 x 10 (4) x 25  | 850                                   |
| B-2 General Business                                    | Business Office                             | None x 60 x None  | 3 / 36                               | 30 x 10 (4) x 25  | None                                  |
| B-3 Central Business                                    | Business Office                             | None x None x None  | 4 / 48                               | None (7) x None (4) x None (4)                                      | None                                  |
| I-1 Light Industry                                      | Industry                                    | 20,000 x 100 x None   | 4 / 48                               | 30 x 10 (5) x 20 (5)  | None                                  |
| I-2 General Industry                                    | Industry                                    | 20,000 x 100 x None   | 4 / 48                               | 30 x 10 (6) x 20 (6)  | None                                  |
| I-3 Industrial Park                                     | See District Requirements at Section 30-32  |   |                                      |   |                                       |
| I-4 Airport Industrial Park                             | See District Requirements at Section 30-32A |   |                                      |   |                                       |
| A Airport   | Airport Related                             | 20,000 x 100 x None   | 4 / 48                               | 30 x 10 (6) x 20 (6)  | None                                  |

Notes to Schedule of Regulations.

- (1) Where properties of different zone districts are contiguous, and one (1) or both of the properties is in a residential district, the minimum yard setbacks of the higher residential district shall apply to the other property unless the minimum requirements of the abutting property are more stringent, or unless otherwise provided by this Chapter.
- (2) Where front yards of two (2) or more principal structures in any block (in the case of platted lots) or within three-hundred (300') feet (in the case of unplatted lots) in existence prior to August 22, 1983, within the district zoned and on the same side of the street are less than the minimum front yards required herein, then any building subsequently erected within said block or three hundred (300') feet shall not be less and need not be greater than the average depth of the front yards of the existing structures.
- (3) All exterior side yards abutting a street shall be provided with a setback equal to the front yard setback requirements of the district in which located and all regulations applicable to a front yard shall apply. However, in a residential District when two rear yards abut each other at a block end, the exterior side yard setback may be equal to the minimum side yard setback of the District.
- (4) Where a B-1, B-2 or B-3 Business District is contiguous to any residential district, any contiguous side or rear yard shall be a minimum of twenty (20') feet.
- (5) Where an I-1 Industrial District is contiguous to any residential district, any contiguous side or rear yard shall be a minimum of twenty-five (25') feet.
- (6) Where an I-2 Industrial District or An Airport District is contiguous to any residential district, any contiguous side or rear yard shall be a minimum of thirty-five (35) feet.

- (7) No building shall be located within twenty (20') feet of any front lot line located across the street from any residential district.
- (8) The following uses are excepted from height requirements:
- (a) Parapet walls not exceeding four (4') feet in height, chimneys, communication towers, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, penthouses, stacks, stage towers or scenery lofts, flour tanks, water towers, ornamental towers, monuments, cupolas, domes and spires, necessary mechanical appurtenances, or additions to existing buildings which prior to August 22, 1983, exceeded the height limitations of the zoning district up to the height of the existing building.
- (9) Yard Requirements.
- (a) No lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this Chapter; and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced. No required open space provided about any building or structure shall be included as part of any open space required for another structure.
- (b) The following shall not be considered as encroachments on required yard setbacks for all lots:
- (i) Chimneys, flues, belt courses, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters and the like provided they do not project more than two (2') feet into a required yard.
- (ii) An enclosed entrance for a detached single family, two family or town house dwelling may extend into the front yard setback not more than four (4') feet.
- (iii) Terraces, steps, wheelchair ramps, uncovered porches, stoops, landings or similar features.
- (iv) Laundry drying and recreational equipment, arbors, trellises, air conditioning or heating equipment in side or rear yards to a point no closer than five (5') feet from any lot line.
- (v) One (1) detached accessory building not exceeding eight (8') feet in height, nor one-hundred (100) square feet in area in the rear yard to a point no closer than five (5') feet from any lot line.

**CHART 4 - ECONOMIC AND FISCAL ANALYSIS**  
 (City of Three Rivers Zoning Ordinance Reference: 30-34)

**ECONOMIC AND FISCAL ANALYSIS STATEMENT PERTAINING TO LARGE RETAIL AND COMMERCIAL PLANNED DEVELOPMENT (“CPD”) WITH BUILDINGS OVER 60,000 SQUARE FEET.**

The Impact Statement shall include the following elements:

- (1) Identification and assessment of the impacts of proposed project, including positive, negative, and indirect impacts.
- (2) Proposed measures to mitigate adverse impacts and/or maximize positive impacts including provision of infrastructure or public services improvements sufficient to support the project. Any adverse impacts that cannot be mitigated shall be identified. Mitigation measures to be implemented by the applicant shall be identified.
- (3) The Impact Statement shall assess the following areas of potential impact:
  - (a) For the project, estimate the following using the table format below.

- (i) Types of jobs to be created
- (ii) Number of full-time (40 hrs/wk) and part time (less than 40 hrs/wk) jobs created
- (iii) Type of Jobs      Number of                                      Number of                                      Other

Full-  
Time  
Position  
s  
  
Part-  
Time  
  
Informati  
on  
(40+hrs/wk)  
  
Positions

- (4) Estimate the amount of local labor to be used in the construction of the CPD and in employment. Local is defined as residents or businesses located within the boundaries of the Three Rivers Community School District.
- (5) Evaluate the market and financial feasibility of the project. Include a Trade Area analysis indicating the market proposed for the CPD and the area from which patrons will be attracted, and any plans for phased construction. Include any further market studies prepared for the CPD by the applicant.
- (6) Evaluate if the proposed CPD creates an over-supply of retail space in the City and adjoining Townships, i.e. more than one acre of commercial land for every one hundred fifty (150) residents.
- (7) Evaluate the impact of the proposed CPD on commercial vacancy rates in the City and adjoining Townships.
- (8) Estimate to what extent the proposed project would reduce the diversity of the City’s economic base by eliminating smaller businesses.
- (9) Compare and evaluate the projected costs and benefits to the community resulting from the CPD including:
  - (a) projected costs arising from increased demand for and required improvements to public services and infrastructure,
  - (b) value of improvements to public services and infrastructure to be provided by the CPD,
  - (c) projected tax revenues to the City to be generated by the CPD,

- (d) projected impact of the CPD on land values (both residential and commercial) and potential loss or increase in tax revenues to the City,
- (e) short-term and long term projection of increased revenues to the City, and costs resulting from the proposed CPD,
- (f) estimate the difference between how much of the revenue generated by the proposed CPD will be retained and re-directed back into the economy of the City compared to other chain stores and locally-owned, independent retailers in the City.
- (g) estimate to what extent the proposed CPD would preclude higher value development on the site.

**CHART 5 - PLAN REVIEW AND APPROVAL**  
(City of Three Rivers Zoning Ordinance Reference:30-36)

- A. **STANDARDS FOR REVIEW OF CONCEPTUAL PLAN:** In making their respective determinations, the Planning Commission and the commission shall consider the following standards and objectives in reviewing the conceptual plan for a Commercial Planned Development ("CPD"):
1. The buildings and structures are of a size and location which achieve economy and efficiency in the use of the land, natural resources and energy, and in the providing of public services and utilities.
  2. The buildings and structures are compatible with and mutually supportive of each other.
  3. The buildings and structures are of a unified architectural and structural character
  4. The plan incorporates techniques which encourage innovation in land use and variety in design size, layout and type of buildings and structures constructed. The plan incorporates useful open space in an appropriate amount and location.
  5. The landscaping is of a common unifying theme which provides integration of the sites within the CPD.
  6. The common drives, parking areas and service areas are designed and sized in a definite relationship to the types and sizes of uses to be located in the CPD. The CPD provides an attractive, comfortable and convenient environment for patrons and others who desire to use the CPD.
  7. It is designed and will be constructed in such a way as to be compatible with the environment and with neighboring uses, especially residential areas,
  8. The transitions between the various sites and structures within the development are of a type, nature and size which enhance the ease and safety of vehicular and pedestrian traffic flow and are also consistent with the character of the CPD.
  9. The public services and facilities affected by the conceptual plan are capable of accommodating the increased service and facility loads caused by the CPD.
  10. The conceptual plan considers the natural environment and conserves natural resources and energy.
- B. **PLAN REVIEW PROCEDURE:** A Commercial Planned Development shall be permitted subject to an approved unified form of land development plan (conceptual plan) and an approved site plan (specific plan) as follows:
1. **Conceptual Plan required; Contents:** Prior to development of a CPD, the owner or developer of the tract of land to be developed shall submit a conceptual plan to the Zoning Administrator.
  2. **Staff Review:** This conceptual plan shall be reviewed by City Staff to ensure that it is in compliance with the requirements of a CPD as well as the overall intent of a CPD as set forth in Chapter 5 of this Code.
  3. **Informal Meeting:** The owner or developer may request an informal meeting with the Zoning Administrator to investigate the procedures, standards and objectives of a Commercial Planned Development.
  4. **Content of Conceptual Plan:**
    - a. A statement of purpose and objectives
    - b. A general plan of CPD, including the proposed uses by relative intensity and proportion of land use area intended for each use.
    - c. A map or maps containing the date and north arrow, to be drawn at a minimum acceptable scale of one (1") inch equals one hundred (100') feet
    - d. The name of the proposed CPD, legal description, and names and addresses of the landowner and developer.
    - e. All continuous holdings of the landowner, accompanied by an affidavit of ownership which includes the date of acquisition and Liber and Page of the conveyance as recorded by the St. Joseph County Register of Deeds.
    - f. Property lines of adjacent tracts of land
    - g. The location, width and names of existing streets, and public and private easements.
    - h. The location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the property.
    - i. The topography drawn as contours with an interval of not more than two (2') feet. Elevations must be based on United States Geological Survey data.
    - j. The use, height and setbacks (location) of the buildings and other structures, including an elevation drawing of each side of the building.

- k. A program of development outlining the proposed stages of the CPD, including the time schedule, and screening, landscaping and buffering proposals.
  - l. A statement demonstrating the independence of each development stage and the integration of the proposed CPD into the proposed or existing development pattern.
  - m. The location, function, ownership and manner of maintenance of common open space and the preliminary landscape proposal for the CPD.
  - n. The preliminary proposals for the distribution of water and the disposition of sanitary waste and storm water.
  - o. The assessment of traffic issues and impacts, and provisions for parking vehicles, the location and width of proposed streets and public ways, and the relationship of proposed streets and other public facilities in proximity to the proposed CPD.
  - p. The substance of covenants, grants of easements or other restrictions to be imposed upon the use of land, buildings, and other structures, including proposed easements for public utilities.
  - q. An inventory of natural features and characteristics, including bodies of water, flood plains, wetlands, soils, groves of trees, and historical archeological and similar irreplaceable assets.
- C. REVIEW BY PLANNING COMMISSION: A review of the conceptual plan and a public hearing on the conceptual plan pursuant to the requirements of this Chapter shall be conducted by the Planning Commission. The Planning Commission shall submit its recommendation to the City Commission.
- D. ACTION BY CITY COMMISSION
- 1. After receipt of the Planning Commission recommendation, the commission shall hold a public hearing on the conceptual plan pursuant to the requirements of this Chapter.
  - 2. The City Commission may make modifications to the conceptual plan which are deemed appropriate and consistent with the requirements and objectives stated in this Chapter.
  - 3. The conceptual plan may be approved with conditions, modified or rejected by the City Commission.
- E. EXPIRATION OF CONCEPTUAL PLAN:
- 1. If a specific plan is not received at the time required by an approved program of development or within one (1) year after the approval of the conceptual plan, whichever is less, conceptual plan approval shall expire.
  - 2. The Planning Commission may, after receipt of a written request from the developer before the expiration of the time period, grant a one-year extension of the conceptual plan or modify the approved program of development.
  - 3. If the conceptual plan expires or if modifications are needed, a plan must be resubmitted in the same manner as provided for review and approval of the original conceptual plan.
- F. AUTHORITY TO WAIVE OR MODIFY STANDARDS: The City Commission may waive or modify the standards and requirements of this Section for a conceptual plan based on evidence submitted by the developer that:
- 1. A requirement is inconsistent with the planned development as a whole;
  - 2. The objectives of the standard or requirement can be satisfactorily met without strict adherence to it;
  - 3. The waiver or modification will not be detrimental to the public welfare or injurious to other surrounding property;
  - 4. Because of the particulars of the facilities proposed in the plan, it would be unreasonable to require strict adherence.
- G. SITE PLAN CONFORMANCE WITH CONCEPTUAL PLAN: Subsequent to approval of the conceptual plan, development of an individual lot or parcel in a CPD as a specific plan shall be permitted pursuant to an approved site plan, subject to the requirements specified in Site Plan Review. The specific plan shall be in substantial conformance with the approved conceptual plan.
- H. TIME LIMIT FOR COMMENCING DEVELOPMENT: After a specific plan is approved pursuant to Site Plan Review, the CPD shall commence within six (6) months of approval of the specific plan. If development is not begun within this time period, the specific plan must be resubmitted for approval in accordance with the requirements of Site Plan Review.
- I. RESUBMISSION: If the specific plan expires or if modifications are needed, the plan must be resubmitted in the same manner as provided for the review and approval of the original specific plan.