

# City of Harper Woods, Michigan

## ZONING ORDINANCE

Prepared by

**MCKenna**  
ASSOCIATES

235 East Main Street, Suite 105

Northville, Michigan 48167

Telephone: (248) 596-0920

Fax: (248) 596-0930

Web: [mcka.com](http://mcka.com)

# City of Harper Woods, Michigan

## ZONING ORDINANCE

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**Mayor:** Kenneth A. Poynter

**Mayor Pro-Tem:** Cheryl A. Costantino

### **City Council**

Charles Flanagan

Valerie J. Kindle

Hugh R. Marshall

Daniel S. Palmer

Vivian M. Sawicki

### **Planning Commission**

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Terri Larrew

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Valerie J. Kindle

Shanna R. Reed

### **City Administration**

Randolph Skotarczyk, Manager

Leslie M. Frank, Clerk

Lyn Giera, Building Inspector

Robert Thibeault

### **City Attorney**

Bellanca, Beattie & DeLisle

J. Russell LaBarge, Jr., Attorney

### **Planning Consultant**

McKenna Associates

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## **ARTICLE I - ESTABLISHMENT OF JURISDICTION**

### **Section 10-100 Short Title.**

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

### **Section 10-110 Construction of Language.**

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

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

meaning of these Zoning Regulations.

- M. Unless the context clearly indicates to the contrary, where an illustration accompanies any item within these Zoning Regulations, the written text shall have precedence over said illustrations.

**Section 10-120 Definitions.**

For the purpose of enforcing the provisions of this Ordinance, certain terms and words used herein are defined as follows:

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

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

**ACCESS TO PROPERTY, REASONABLE:** A property owner’s legal right, incident to property ownership, to access a public road right-of-way. Reasonable access to property may be indirect and certain turning movements may be prohibited for improved safety and traffic operations.

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

**ACCESSORY APARTMENT BUILDING:** A separate and complete dwelling unit that is contained within the structure of a one-family dwelling unit.

**ACCESSORY BUILDING** A supplementary building or a portion of a main building, the use of which is incidental to that of the main building and which is located on the same lot as the main building, but such use shall not include any building used for dwelling, lodging, or sleeping quarters for human beings.

**ADULT CARE RESIDENTIAL FACILITY:** A dwelling or similar building of a residential character which is used or intended to be used to provide housing and care for five or fewer unrelated ambulatory persons who are eighteen years of age or older and who are elderly, physically ill or infirm, physically handicapped, mentally retarded or who have a mental handicap or illness such that they do not require constant supervision or treatment. Adult care residential facility includes a group or community residence which is licensed by the State as a “residential facility for groups” and is designed to provide transitional living arrangements for persons with illness or disability, but only if medical and psychiatric care is provided therein no more than on an occasional basis and incidental to its use as a residence. The term does not include a convalescent care facility, hospital or special care facility nor any facility which:

- A. qualifies as a one-family dwelling;
- B. provides or is designed to provide surgical, medical or other specialized treatment which normally is provided by a convalescent care facility, hospital or special care facility; or

- C. provides housing or care to persons who have a chronic illness, disease, injury, or other condition that would require the degree of care and treatment normally provided by a convalescent care facility, hospital or special care facility.

**ADULT DAY CARE FACILITY:** A facility which provides daytime care for any part of a day but less than 24 hour care for functionally impaired elderly persons provided through a structured program of social and rehabilitative or maintenance services in a supportive group setting other than the client's home. Such facilities are not licensed, however those receiving funds through an Area Agency on Aging must comply with adult day care standards promulgated by the Michigan Office of Services to the Aging.

**ADULT FOSTER CARE FACILITY:** A governmental or nongovernmental establishment that provides supervision, personal care, and protection in addition to room and board, for 24 hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation for adults over 18 years of age. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential center for persons released from or assigned to a correctional facility. These facilities are licensed and regulated by the state under Michigan Public Act 218 of 1979, as amended, and rules promulgated by the Michigan Department of Consumer and Industry Services. Such facilities are classified as follows:

- 1. **Adult Foster Care Congregate Facility:** An adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care.
- 2. **Adult Foster Care Small Group Home:** An adult foster care facility with the approved capacity to receive 12 or fewer adults to be provided with foster care.
- 3. **Adult Foster Care Large Group Home:** An adult foster care facility with approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.

**ADULT FOSTER CARE FAMILY HOME:** A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for 24 hours a day for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

**ADULT REGULATED USES OR SEXUALLY-ORIENTED BUSINESSES:**

- 1. Uses: Any business which primarily features sexually stimulating material and/or performances, including the following uses:
  - A. Adult Business Use. "Adult business use" is specifically defined as follows:
    - 1). **Adult Business:** means adult bookstores, adult movie theaters, adult personal service businesses, adult cabarets, massage parlors, tattoo parlors, and nude modeling studios.
    - 2). **Adult Book or Video Store:** means an establishment having a substantial portion (more than 20 percent) of its stock in trade in

books, magazines, periodicals, other printed matter, photographs, drawings, slides, films, motion pictures, video tapes and cassettes, other visual representations, sound recording tapes, and novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” or an establishment with a segment or section devoted to the sale or display of such material, which segment or section exceeds 10 percent of the usable floor area of the establishment.

3). Adult Cabaret:

- a. “Group A cabaret” means an establishment which features nude or semi-nude entertainers, topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, nude or semi-nude waitresses or waiters or similar entertainers, or an establishment which features live entertainment distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
- b. “Group D cabaret” means an establishment licensed by the Michigan Liquor Control Commission, which establishment offers beer or intoxicating liquor for consumption on the premises and features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, topless waitresses or similar entertainers.

4). Adult Model Studio: Any place where models who display “specified anatomical areas” (as defined herein) are present to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons who pay some form of compensation or gratuity. This definition shall not apply to any accredited art school or similar educational institution.

5). Adult Motion Picture Arcade or Miniature-Motion Picture Theater: Any place where motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images displayed depict, describe, or relate to “specified sexual activities” or “specified anatomical areas” (as defined herein).

6). Adult Movie Theater or Adult Live Stage Performing Theater: An enclosed building or room used for presenting motion picture films, video cassettes, cable television or any other visual media having as a dominant theme materials distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activity” or “specified anatomical areas” for observation by patrons therein. Such an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

- 7). Adult Outdoor Motion Picture Theater: A drive-in theater where a substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” (as defined herein) for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- 8). Adult Personal Service Business: A business having as its principal activity a person, while nude or while displaying specified anatomical areas, providing personal services for another person. Such a business includes, but is not limited to, modeling studios, body painting studios, wrestling studios and conversation parlors.

Any establishment, club, or business by whatever name designated, which offers or advertises, or is equipped or arranged to provide as part of its services, massages, body rubs, body painting, alcohol rubs, physical stimulation, baths, or other similar treatment by any person. An adult personal service establishment may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, and steam baths. The following uses shall not be included within the definition of an adult personal service establishment:

- a. Establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed physical therapist, a licensed practical nurse practitioner, or any other similarly licensed or certified medical professionals;
- b. Establishments which offer massages performed by certified massage therapists;
- c. gymnasiums, fitness centers and health clubs;
- d. electrolysis treatment by a licensed operator of electrolysis equipment;
- e. continuing instruction in martial or performing arts, or in organized athletic activities;
- f. hospitals, nursing homes, medical clinics, or medical offices;
- g. barber shops, beauty parlors, hair stylists and salons which offer massages by certified massage therapists; and
- h. adult photography studios whose principal business does not include the taking of photographs of “specified

anatomical areas” as defined herein.

- 9). Adult Video Store: An establishment having a substantial portion of its stock-in-trade devoted to the distribution, display, storage, or on-premises viewing of films, movies, motion pictures, video cassettes, slides, or other visual representations which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material.
- 10). Sexual Paraphernalia Store: An establishment having a substantial portion of its stock-in-trade devoted to the distribution, display, or storage, of instruments, devices, or paraphernalia designed for use related to “specified anatomical areas” or as part of, in connection with, or related to “specified sexual activities” (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material.

B. Special Definitions. With respect to Adult Regulated Uses or Sexually Oriented Businesses, the following terms and phrases shall have the following meanings:

- 1). Substantial Portion: A use of activity accounting for more than 20 percent of any one or more of the following: stock-in-trade, sales revenue, display space, floor space, viewing time, movie display time, or entertainment time measured per month.
- 2). Specified Anatomical Areas: Portions of the human body defined as follows:
  - a. Less than completely and opaquely covered:
    - 1). Human genitalia and pubic region;
    - 2). Buttock and anus; and
    - 3). Female breast below a point immediately above the top of the areola; or
  - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- 3). Specified Sexual Activities: The explicit display of one or more of the following:
  - a. Human genitals in a state of sexual stimulation or arousal;
  - b. Fondling or other erotic touching of human genitalia, pubic region, buttocks, anus, or female breast;
  - c. Human sex acts, normal or perverted, actual or simulated including, but not limited to human masturbation, oral

copulation, sexual intercourse, or sodomy;

- d. Human excretory functions as part of, or as related to, any of the activities described above;
  - e. Physical violence, bondage, mutilation, or rape, actual or simulated, as part of or related to, any of the activities described above.
- 4). Sexual Intercourse: Includes fellatio, cunnilingus, anal intercourse or any other intrusion, however slight, of any part of a person's body, or of any object, into the genital or anal openings of another's body.
  - 5). Sodomy: Means sexual bestiality.
  - 6). Buttock: Includes the anus and perineum of any person.
  - 7). Massage Parlor: An establishment wherein private massage is practiced, used or made available as a principal use of the premise.
  - 8). Massage: The manipulation of body muscle or tissue, by rubbing, stroking, kneading, tapping or vibrating, through the use of a physical, mechanical or other device, of the body of another for a fee.
  - 9). Nude Modeling Studio: Any building, structure, premises or a part thereof used primarily as a place which offers as its principal activity the providing of models to display specified anatomical areas for artists and photographers for a fee.

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

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

**APARTMENT:** A suite of rooms or a room in a multiple-family or commercial building arranged and intended for a place of residence of a single family or a group of individuals living together as a single housekeeping unit.

**APARTMENT, ACCESSORY:** A single apartment unit contained within a single family home meeting the regulations of this Zoning Code.

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

**ARCHITECTURAL FEATURE:** Any exterior element of a building which expresses or reflects



the building's architectural style, including but not limited to: cornice, eave, gutter, belt course, sill, lintel, bay window, chimney and decorative ornament.

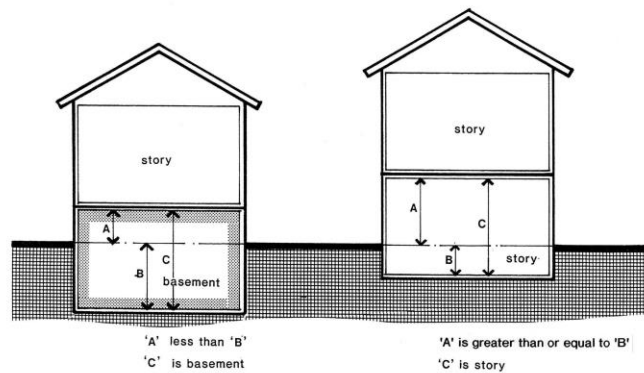
**ARTERIAL STREET:** A street defined in the Master Plan as “major traffic routes” and/or as an arterial or major street by the Michigan Department of Transportation where the movement of through traffic is the primary function, with service to adjacent land uses a secondary function.

**AUTOMOBILE:** Unless specifically indicated otherwise, “automobile” shall mean any motorized vehicle intended to be driven on roads or trails, such as cars, trucks, van and motorcycles.

**AUTOMOBILE SERVICE STATION:** A building or structure designed or used for the retail sale of fuel (stored only in underground tanks), lubricants, air, water and other operating commodities for motor vehicles, aircraft or boats, and including the customary space and facilities for the installation of such commodities on or in such vehicles, and including space for facilities for the storage, minor repair, or servicing, but not including bumping, painting, refinishing, major repairs and overhauling, steam cleaning, rust proofing, where the primary use of the premises is such, or high-speed washing thereof, or sales of used cars, new cars, used trucks, new trucks, motorcycles or other land vehicle type, or sale unrelated to service station use.

**AUTOMOBILE WASH ESTABLISHMENT:** A building, or portion thereof, where automobiles or other vehicles are washed with the use of a chain conveyor and blower and having, as optional equipment, steam cleaning devices.

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



**Basement and Story**

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

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

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

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

**BLOCK:** The property abutting one (1) side of a street and lying between the two (2) nearest intersecting streets, crossing or terminating; or between the nearest such street, unsubdivided acreage, or between any of the foregoing and any other barrier to the continuity of the development.

**BREW PUB:** A restaurant or tavern (as defined within this Ordinance) licensed by the State of Michigan to produce and manufacture not more than 5,000 barrels of beer per calendar year in Michigan, and sell at retail on the premises the beer produced and manufactured for consumption on or off the premises in the manner provided for in MCLA 436.31b and 436.31c.

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

**BUILD-TO LINE:** An alignment that dictates the front yard setback from a street or public right-of-way, to be followed by buildings or structures fronting thereon. The build-to line does not apply to building projections or recesses.

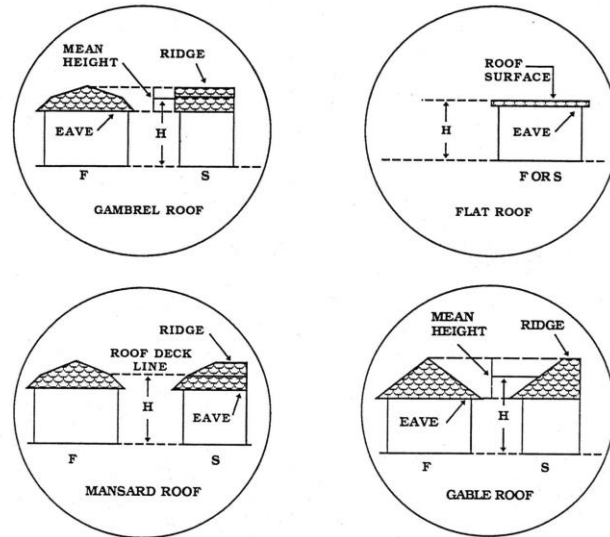
**BUILDABLE AREA:** The space remaining on a lot after compliance with the minimum required setbacks of this Chapter.

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

**BUILDING COVERAGE:** The percentage of the lot area covered by the building area.

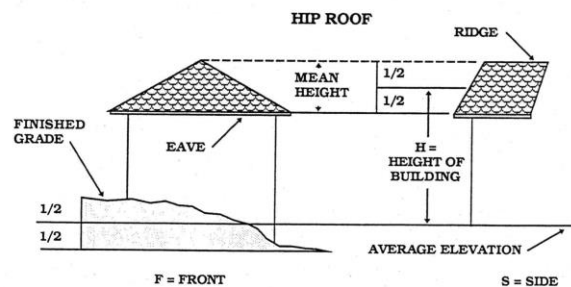
**BUILDING HEIGHT:** The vertical distance measured from the grade of the building to the top of the highest roof beams of a flat roof, to the deck line for mansard roofs and to the mean height level (between eaves and ridges) for gable, hip and gambrel roofs. Where a building is located upon a terrace,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

**BUILDING HEIGHT**



**BUILDING INSPECTOR:** The Building Inspector of the City of Harper Woods, or his authorized representative.

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



**BUILDING, MAIN OR PRINCIPAL:** A building in which is conducted the principal use of the lot upon which it is situated.

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

**CABARET:** An establishment which features topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

**CARRY-OUT RESTAURANT:** A restaurant whose principal business is the sale of foods or beverages to the customer in a ready-to-consume state, and whose design and operation includes all of the following:

- (1) Foods and beverages are served in disposable containers that can be taken from the premises.
- (2) In order to be served, the customer must enter the building; no service is provided to customers who remain within their vehicles.
- (3) No facilities are provided for consumption of the food or beverages within the building or on the premises.

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

**CERTIFICATE OF OCCUPANCY:** No building or structure or use for which a building permit has been issued shall be occupied until the Building Inspector has, after final inspection, issued a Certificate of Occupancy indicating his or her opinion that all the provisions of this Zoning Code are being complied with. The issuance of a Certificate of Occupancy shall in no case be construed as waiving any provisions of this Zoning Code.

**CHILD CARE ORGANIZATION:** 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. These facilities care for children under the age of 18 years of age, and are licensed and regulated by the State under Act No. 116 of the Public Acts of 1973, as amended, and Act No. 218 of the Public Acts of 1979, as amended, and the associated rules promulgated by the State Department of Consumer and Industry Services. Such care organizations are classified below:

1. **Child Care Center or Day Care Center:** A facility other than a private residence, receiving one (1) or more preschool or school age children for group day care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day.

The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. "Child care center" or "day care center" does not include a Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

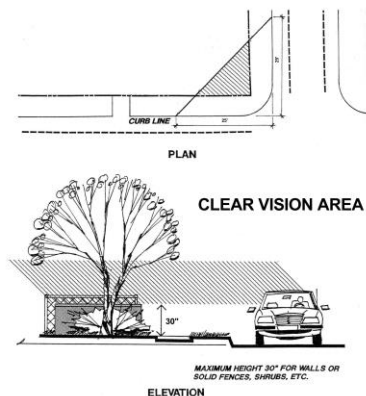
2. **Child Caring Institution:** A child care facility which is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24 hour basis, in a building maintained for that purpose, and operates throughout the year. It includes a maternity home for the care of unmarried mothers who are minors, an agency group home, and institutions for mentally retarded or emotionally disturbed minor children. It does not include hospitals, nursing homes, boarding schools, or an adult foster care facility in which a child has been placed.
3. **Foster Family Home:** A private home in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
4. **Foster Family Group Home:** A private home in which more than four (4) but less than seven (7) children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for 24 hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

5. Family Day Care Home: A private home in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than (4) weeks during a calendar year.
6. Group Day Care Home: A private home in which more than six (6) but not more than 12 children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.

CITY: The City of Harper Woods, Michigan.

CITY COUNCIL: The duly elected or appointed City Council of the City of Harper Woods.

CLEAR VISION ZONE: The triangular space reserved from visual obstruction to provide a clear view for motorists and pedestrians for safety purposes according to the standards specified in Section 10-215. (See diagram: "Clear Vision Area") (See FENCE; see SCREENING.)



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

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

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

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

CO-LOCATION: See WIRELESS COMMUNICATION FACILITIES.

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

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

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

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

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

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

**CONDOMINIUM ACT:** Michigan Act 59 of 1978, as amended.

**CONDOMINIUM, CONTRACTIBLE:** A condominium project from which any portion of the submitted land or building may be withdrawn in pursuant to express provisions in the condominium documents and in accordance with the City of Harper Woods Code of Ordinances and the Condominium Act.

**CONDOMINIUM, CONVERSION:** A condominium project containing condominium units some or all of which were occupied before the establishment of the condominium project.

**CONDOMINIUM - CONVERTIBLE AREA:** A unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to provisions in the condominium documents and in accordance with this Zoning Code and the Condominium Act.

**CONDOMINIUM, EXPANDABLE:** A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with this Zoning Code and the Condominium Act.

**CONDOMINIUM - GENERAL COMMON ELEMENT:** The common elements other than the limited common elements intended for the common use of all co-owners.

**CONDOMINIUM - LIMITED COMMON ELEMENT:** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

**CONDOMINIUM MASTER DEED:** The condominium document recording the condominium project as approved by the City including attached exhibits and incorporated by reference the

approved bylaws for the project and the approved condominium subdivision plan for the project.

**CONDOMINIUM - SITE CONDOMINIUM PROJECT:** A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision. A residential site condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in this Zoning Code.

**CONDOMINIUM SUBDIVISION PLAN:** Drawings and information which show the size, location, area, and boundaries of each condominium unit, building locations, the nature, location, and approximate size of common elements, and other information required by Section 66 of Michigan Public Act 59 of 1978, as amended.

**CONDOMINIUM UNIT SITE (i.e., SITE CONDOMINIUM LOT):** The area designating the perimeter within which the condominium unit must be built. After construction of the condominium unit, the balance of the condominium unit site shall become a limited common element. The term "condominium unit site" shall be equivalent to the term "lot" for purposes of determining compliance of a site condominium subdivision with the provisions of this Zoning Code pertaining to minimum lot size, minimum lot width, minimum lot coverage and maximum floor area ratio. Condominium setbacks shall be measured as described below:

1. **Front Yard Setback:** The distance between the public street right-of-way or private road easement line and the foundation of the unit site. Where there is no public right-of-way or access easement, the front yard setback required in the district shall be measured from 15 feet from the nearest pavement edge to the foundation of the unit.
2. **Side Yard Setback:** The distance between the side of a condominium building unit and the side unit (lot) line. Where no unit (lot) lines are provided, the distance between the closest points of two (2) units shall be double the side yard setback required in the zoning district.
3. **Rear Yard Setback:** The perimeter shall be the distance between the limit of the development and the rear of the unit; within the development rear yards setbacks shall be measured as the distance between the rear building line and the rear site (lot) line, or where lot lines are not defined, the space between the rear building lines of two (2) buildings shall be double the rear yard setback required in the zoning district.

**CONDOMINIUM UNIT:** The portion of the condominium project designed and intended for separate ownership as described in the Master Deed , regardless of whether it is intended for residential, office, business, recreational, use as a time-share unit, or any other type of use.

**CONGREGATE HOUSING:** *(see Housing for the Elderly.)*

**CONVALESCENT OR NURSING HOME:** A home for the care of children or the aged or the infirm, or a place of rest for those suffering serious bodily disorders, wherein three (3) or more persons are cared for. Said home shall also conform to, and qualify for license under applicable State laws (even though State law may provide for different size regulations).

**CONVERTED DWELLING:** A building originally constructed as a single detached dwelling unit which, because of size or design, has been converted by partition or the addition of sanitary and

cooking facilities or both, into more than one dwelling unit.

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

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

**CUL-DE-SAC:** A local street, one end of which is closed and consists of a circular turn-around.

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

**DENSITY:** The number of dwelling units per acre of land.

- A. **GROSS DENSITY:** The number units per acre of total land being developed.
- B. **NET DENSITY:** The number of units per acre of land devoted to residential use (excluding streets and public right-of-way).

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

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

**DRIVE-IN ESTABLISHMENT:** A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in, or momentarily away from their motor vehicle.

Drive-in establishments include, but are not limited to, the following uses and services: banks, laundry or dry cleaning, film processing, and restaurants (elsewhere defined as FAST FOOD WITH CAR SERVICE, FAST FOOD WITHOUT CAR SERVICE, and CARRY-OUT RESTAURANT).

**DWELLING:** A house or building, or portion thereof, which is occupied wholly as the home, residence or sleeping place by one (1) or more human beings, either permanently or transiently, but in no case shall a trailer coach, automobile chassis, tent or portable building be considered as a dwelling.

In case of mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for the purpose of this Ordinance and shall comply with the provisions hereof relative to dwellings. Garage space, whether in an attached or detached garage, shall not be deemed as part of a dwelling for area requirements.

- A. **DWELLING, MULTIPLE:** A building used for and as a residence for three (3) or more families living independently of each other and each having their own cooking facilities therein, including apartment houses, townhouses, and apartment hotels, but not including homes.



- B. DWELLING, ONE-FAMILY: A detached building occupied by one (1) family and so designed and arranged as to provide living, cooking and kitchen accommodations for one (1) family only. Also known as a single family dwelling.
- C. DWELLING, TWO-FAMILY: A dwelling that is occupied by two (2) families, each provided with separate facilities for each family for living accommodations. Also known as a duplex dwelling.
- D. DWELLING UNIT: Any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence, or sleeping place of one (1) family, either permanently or transiently, but in no case shall a travel trailer, mobile home, motor home, automobile chassis, tent or other portable building be considered a dwelling in single-family, two-family or multiple-family residential areas. In cases of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this Ordinance and shall comply with the provisions thereof relative to dwellings.
- E. DWELLING UNIT, MANUFACTURED: A building or portion of a building designed for long-term residential use and characterized by all of the following:
  - 1. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended;
  - 2. The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities;
  - 3. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on the site.

A mobile home is a type of manufactured housing, which is defined as follows:

Dwelling, Mobile Home: A structure, transportable in one (1) or more sections, which is built upon a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Recreational vehicles as described and regulated herein shall not be considered "mobile homes" for the purposes of this Zoning Code.

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

ELDERLY HOUSING COMPLEX: *(see Housing for the Elderly.)*

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

ESSENTIAL SERVICES: The erection, construction, alteration or maintenance by public utilities or public authorities, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes,

traffic signals, hydrant or other similar equipment and accessories in connection therewith, not including buildings, as shall be reasonably necessary for the furnishing of adequate services by public utilities, or public authorities, or for the public health, safety or general welfare (not including buildings other than are primarily enclosures or shelters of the above essential service equipment). Same shall be permitted as authorized by law and other ordinances, the intent here being to exempt such erection from the application of this Ordinance.

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

**FAMILY:** One or more persons living together and interrelated by bonds of consanguinity, marriage, or legal adoption, and occupying the whole or a part of a dwelling unit as a single nonprofit housekeeping unit, or a group of not more than three (3) persons who need not be related by bonds of consanguinity, marriage, or legal adoption living together as a single housekeeping unit and occupying a single nonprofit housekeeping unit, as distinguished from a group occupying a hotel, club, boarding house, fraternity or sorority house. A family shall be deemed to include domestic servants, gratuitous guests, and not more than three (3) foster or boarded children who are sponsored or whose room and board is paid by a recognized child care agency or organization.

**FAST FOOD WITH CAR SERVICE:** A restaurant whose principal business is the sale of ready-to-eat foods and ready-to-drink non-alcoholic beverages to the customer and whose design and operation includes both of the following:

- (1) Foods and beverages are served directly to the customer who remains in his vehicle, with service provided by either a car-hop or by means of a drive-up window which eliminates the need for the customer to exit the vehicle.
- (2) The consumption of foods or beverages within the vehicle parked on the premises or at other facilities on the premises outside the restaurant building is allowed, encouraged or permitted.

**FAST FOOD WITHOUT CAR SERVICE:** A restaurant whose principal business is the sale of foods or beverages to the customer in a ready-to-consume state for the consumption either within the restaurant building or for carry-out with consumption off the premises, and whose design and operation includes all of the following:

- (1) Foods and beverages are served in disposable containers that can be taken from the premises.
- (2) In order to be served, the customer must enter the building; no service is provided to customers who remain within their vehicles.
- (3) Facilities are provided for consumption of the food or beverages within the building or on the premises.

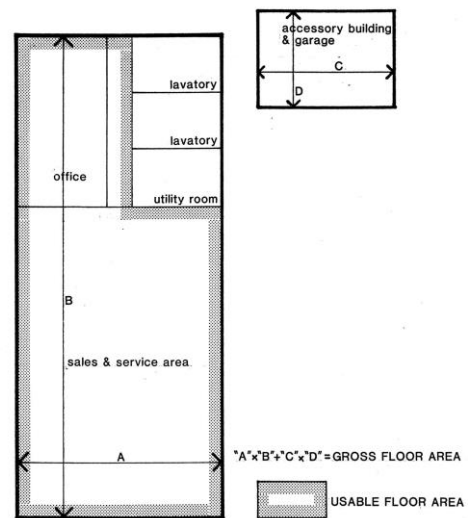
**FENCE:** An artificially constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of material and used to prevent or control entrance, confine within, or mark a boundary. (See *CLEAR VISION ZONE*; see *SCREENING*.)

**FLEA MARKET:** an indoor or outdoor commercial enterprise, open to the general public, where space is rented or leased to two (2) or more vendors for the purchase and/or sale of new and/or used merchandise.

**FLOOR AREA:**

A. **FLOOR AREA, GROSS:** The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings. The "floor area" of a building, which is what this normally is referred to as, shall include the basement floor area when more than one-half (½) of the basement height is above the established curb level or finished lot grade, whichever is higher (see *BASEMENT*). Any space devoted to off-street parking or loading shall not be included in "floor area". Areas of basements, utility rooms, breeze ways, unfinished attics, porches (enclosed or unenclosed) or attached garages are not included.

B. **FLOOR AREA, USABLE:** The measurement of usable floor area shall include that portion of the floor area, measured from the interior face of the exterior walls, used for or intended to be used for services to the public or customers, patrons, clients, or patients; including areas occupied by fixtures or equipment used for display or sale of goods or merchandise, but not including areas used or intended to be used for storage of merchandise, utility or mechanical equipment rooms, or sanitary facilities. In the case of a half story, the usable floor area shall be considered to be only that portion having a clear height above it of four (4) feet or more. (See *diagram: "Floor Area Terminology"*.)



Floor Area Terminology

C. **GROSS LEASABLE AREA (GLA):** The total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines and upper floors, if any, expressed in square feet and measured from the center line of joint partitions and from outside wall faces. It is all the floor area on which tenants pay rent.

**FLOOR AREA RATIO:** The gross area of all buildings on a lot divided by the lot area.

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

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

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

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

**FUNERAL HOME, OR MORTUARY:** A building or part thereof used for human funeral services. Such building may contain space and facilities for:

- A. embalming and the performance of other services used in preparation of the dead for burial;
- B. the performance of autopsies and other surgical procedures;
- C. the storage of caskets, funeral urns, and other related funeral supplies; and
- D. the storage of funeral vehicles, but shall not include facilities for cremation.

**GARAGE:**

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

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

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

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

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

**HALFWAY HOUSE:** A facility for rehabilitation of drug addicts, alcoholics or ex-offenders in a controlled environment with supervision and treatment or counseling provided on-site on an interim basis after referral from a public agency or institutional facility.

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

HEIGHT, BUILDING: (See *Building Height*.)

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

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

HOSPITAL: A building, structure or institution in which sick or injured persons, primarily in-patients, are given medical or surgical treatment and operating under license by the Health Department of the State of Michigan.

HOTEL: A building occupied as a more or less temporary abiding place for individuals, who are lodged with or without meals in rooms occupied singly for hire, in which provision is not made for cooking on any individual plan and in which there are more than 10 sleeping rooms.

HOUSING FOR THE ELDERLY: A facility other than a hospital, hotel, or nursing home, which provides room and may provide board to non-transient persons meeting a minimum age requirement (specified below). Housing for the elderly may include the following:

- A. Senior Apartments: Multiple-family dwelling units occupied by persons fifty-five (55) years of age or older.
- B. Elderly Housing Complex: A building or group of buildings containing dwellings where the occupancy is restricted to person 60 years of age, or older or couples where either the husband or wife is 65 years of age or older.
- C. Congregate Housing: A type of semi-independent housing facility containing congregate kitchen, dining, and living areas, but with separate sleeping rooms or apartments (which may include working facilities). Such facilities typically provide special support services, such as transportation and limited medical care, and where the occupancy is restricted to persons 60 years of age or older.
- D. Dependent Housing Facilities: Facilities, such as convalescent homes and nursing homes, which are designed for older persons who need a wide range of health and support services, including personal nursing care.

INSTITUTIONAL: The use of land, buildings or structure for religious, charitable, educational health or welfare purposes, and includes churches, places of worship, public or private schools and nursery schools.

JUNK: Any motor vehicles, machinery, appliances, product, merchandise with parts missing or

scrap metals or other scrap materials that are damaged, deteriorated, or are in a condition which cannot be used for the purpose for which the product was manufactured.

**KENNEL:** An establishment where four (4) or more dogs, cats, or other domestic animals six (6) months or older are kept temporarily for sale, breeding, boarding, or training, subject to the provisions of Section 10.225.2.

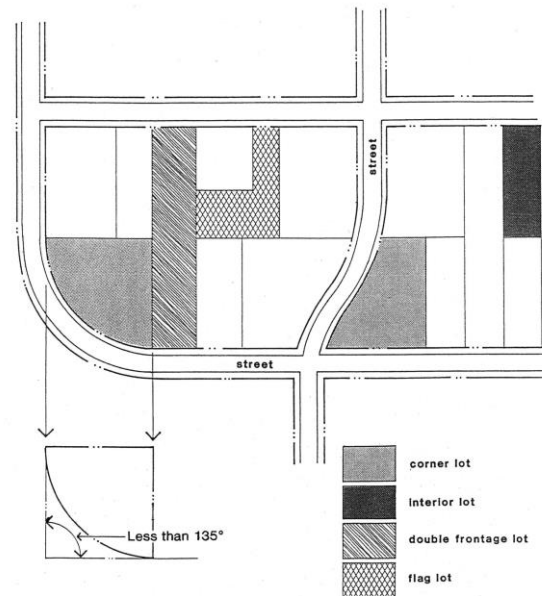
**LABORATORY:** A place devoted to experimental study such as testing and analyzing, but not devoted to the manufacturing of a product or products.

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

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

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

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



**CORNER, INTERIOR & DOUBLE FRONTAGE LOTS**

- A. **LOT DEPTH:** The mean horizontal distance from the center of the front street line to the center of the rear lot line.
- B. **LOT, CORNER:** A lot where the interior angle of two (2) adjacent sides at the intersection of two (2) streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than 150 feet and the tangents to the curve, at the two (2) points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees. (See diagram: "Corner, Interior and Double Frontage Lots".)
- C. **LOT, DOUBLE FRONTAGE:** A lot other than a corner lot having frontage on two (2)

more or less parallel streets. In the case of a row of double frontage lots, one (1) street will be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing buildings in the same block fronting on one or both of the streets, the required minimum front yard setback shall be observed on those streets where the majority of the buildings presently front.

- D. LOT, INTERIOR: A lot other than a corner lot with only one (1) lot line fronting on a street.
- E. LOT WIDTH: The horizontal distance between the side lot lines, measured at the two (2) points where the building line, or setback line, intersects the side lot lines.

LOT AREA: The total horizontal area within the lot lines of the lot, exclusive of any abutting public street right-of-way or private road easements. The net lot area shall be used in determining compliance with Minimum Lot Area standards.

- A. LOT AREA, NET: The total horizontal area within the lot lines of a lot.
- B. LOT AREA, GROSS: The net lot area plus one-half ( $\frac{1}{2}$ ) the area of that right-of-way directly adjacent to or abutting any side of the lot, plus any portion of adjoining public lands deemed proper to be included by the Planning Commission.

LOT COVERAGE: The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures, and permanent swimming pools.

LOT FRONTAGE: The length of the front lot line.

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

- A. LOT LINE, FRONT: In the case of an interior lot abutting on one (1) public or private street, the front lot line shall mean the line separating the lot from such street right-of-way. In the case of a corner or double frontage lot, the front lot line shall be that line separating said lot from that street which is designated as the front street in the plat and/or in the request for a zoning compliance permit.
- B. LOT LINE, REAR: The rear lot line is that boundary which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line not less than 10 feet long lying farthest from the front lot line and wholly within the lot. In any case, when this definition does not apply, the Planning Commission shall designate the rear lot line.
- C. LOT LINE, SIDE: Any lot boundary line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots in an interior lot line.

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

MANEUVERING LANE: A portion of a private parking area, or a commercial parking lot, or a

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

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

**MASSAGE PARLOR:** Any place or establishment where a massage is made available. A massage is any method of treating the superficial parts of a patron for medical, hygienic, exercise, or relaxation purposes by rubbing, stroking, kneading, tapping, pounding, vibrating, or stimulating with the hands or any instrument, or by the application of air, liquid, or vapor baths of any kind whatever.

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

**MEZZANINE:** An intermediate or fractional story between the floor and ceiling of any story occupying not more than one-third (1/3) of the floor area of such story.

**MICROBREWERY:** A brewer licensed by the State of Michigan which produces and manufactures in total less than 30,000 barrels of beer per year, and who may sell at the licensed brewery premises the beer produced and manufactured to consumers for consumption on or off the licensed brewery premises. In determining the thirty-thousand (30,000) barrel threshold, all brands and labels of a brewer, whether brewed in this state or outside this state, shall be combined and all facilities for the production and manufacture of beer that are owned or controlled by the person(s) shall be treated as a single facility.

**MOBILE HOME:** A portable vehicular unit designed for primarily year-round dwelling purposes, built upon a chassis, equals or exceeds eight (8) feet in width and thirty-two (32) feet in length, and not motorized or self-propelled. Also known as a trailer coach or house trailer. A unit which requires being transported to the site separately in two (2) or more sections, and to which such major elements as the heating system or a substantial portion of the siding are installed after transport, shall not be considered a mobile home.

**MODULAR HOME:** A dwelling which consists of prefabricated units transported to the site in two (2) or more sections on a removable undercarriage or flat-bed and assembled for permanent location upon a permanent foundation on the lot, and to which such major elements as the heating system or a substantial portion of the siding are installed after transport, and shall not be considered a mobile home.

**MOTEL:** A building or a group of buildings in which overnight lodging is provided and offered to the public for compensation and catering primarily to the public traveling by motor vehicles.

**MOTOR HOME:** A motorized vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging. This term does not apply to mobile homes.



**MUNICIPAL PARK:** A parcel of land that is used as a park and is operated under the supervision of the City of Harper Woods.

**NONCONFORMING LOT:** A lot, the area, frontage or dimensions of which do not conform to the provisions of this Chapter.

**NONCONFORMING SETBACK:** An established setback that does not conform to the requirements of this Chapter.

**NONCONFORMING USE:** A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereto, and that does not conform to the use regulations of the zoning district in which it is located.

**NONCONFORMING BUILDING OR STRUCTURE:** A building, structure or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, and which does not conform to the provisions (e.g., setbacks, height, lot coverage, parking) of this Ordinance in the zoning district in which it is located.

**NURSERY SCHOOL: Child Care Center or Day Care Center:** A facility other than a private residence, receiving one (1) or more preschool or school age children for group day care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day.

The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. "Child care center" or "day care center" does not include a Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

**NURSING HOME:** *(see CONVALESCENT OR NURSING HOME.)*

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

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

**OFF-STREET PARKING:** A paved area to which an automobile has direct access from a paved aisle of sufficient width.

**OFF-STREET-PARKING LOT:** A facility providing vehicular parking spaces along with adequate drives and aisles. Adequate maneuvering space shall be provided which allows unrestricted access and egress plus on-site storage space for at least two (2) vehicles.

**OPEN AIR BUSINESS USES:** Any use of land or any use of a street that is not fully enclosed by a roof or solid walls including but not limited to the following:

- A. Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.

- B. Retail sale of fruit and vegetables.
- C. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park and/or similar recreation uses.
- D. Bicycle, utility truck or trailer, motor vehicles, boats or home equipment sale, rental or repair services.
- E. Outdoor display and sale of garages, swimming pools, motor homes, mobile homes, snowmobiles, farm implements, and similar products.

**OUTSIDE STORAGE:** The storage of goods in the open air and in unenclosed portions of buildings which are open to the air on the sides.

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

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

**PARKING LOT:** A facility providing vehicular parking spaces, along with adequate drives and aisles for maneuvering to provide access for entrance and exit for the parking of more than three (3) vehicles.

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

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

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

**PLAT:** A map of a subdivision of land.

**PORCH, ENCLOSED:** A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

**PORCH, OPEN:** A covered portion of a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

**PRINCIPAL USE:** The main use to which the premises are devoted and the principal purpose for which the premises exist.

**PRINCIPAL PERMITTED USE:** A use permitted in each zoning district by right subject to site plan review approval.

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

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

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

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

**RECREATIONAL VEHICLE:** Recreational Vehicles shall include the following:

- A. **TRAVEL TRAILER:** A portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" by the manufacturer. Travel trailers generally include self-contained sanitary, water, and electrical facilities.
- B. **PICKUP CAMPER:** A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.
- C. **MOTOR HOME:** A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water, and electrical facilities.
- D. **FOLDING TENT TRAILER:** A folding structure, mounted on wheels and designed for travel and vacation use.
- E. **BOATS AND BOAT TRAILERS:** "Boats" and "boat trailers" shall include boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.
- F. **OTHER RECREATIONAL EQUIPMENT:** Other recreational equipment includes snowmobiles, jet skis, all terrain or special terrain vehicles, utility trailers, plus the normal equipment used to transport them on the highway.

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

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

**RESEARCH ESTABLISHMENT/LABORATORY:** A building, part of a building, or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

**RESIDENTIAL USE:** The use of a building or structure or parts thereof as a dwelling.

**RESTAURANT:** An establishment where food and drink is served to the public for consumption within a building or on the same premises. A restaurant may include, as an accessory use, a carry-out service (provision of foods and non-alcoholic beverages in disposable containers that can be taken from the premises). The inclusion of features that would qualify the establishment under either definition of FAST FOOD, contained in this Section, preclude its inclusion under this definition.

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

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

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

**RIGHT-OF-WAY:** An area of land that is legally described in a registered deed for the provision of private access on which there is usually a lane.

**SATELLITE ANTENNA:** An antenna and attendant processing equipment for reception of electronic signals from satellites.

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

**SCHOOL, CHARTER (PUBLIC SCHOOL ACADEMY):** A charter school or public school academy is a public school and a school district, and is subject to the leadership and general supervision of the state board over all public education. A public school academy is authorized by the executive action of an authorizing body which may be the board of a school district, and intermediate school board, or the board of a community college or a state public university. A charter school shall not be organized by a church or other religious organization.

**SCHOOL, HOME:** Home school enables a child to be educated at the child's home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science history, civics, literature, writing and English grammar. The home school family may choose whether to operate as a nonpublic school. If a home school family chooses to operate as a nonpublic school, it must register with the Michigan Department of Education.

**SCHOOL, NONPUBLIC:** A nonpublic school is any school other than a public school giving instruction to children below the age of 16 years and not under the exclusive supervision and control of the officials having charge of the public schools of the state. Nonpublic schools include private, denominational, and parochial schools.

**SCHOOL, PUBLIC:** A public school is a public elementary or secondary educational entity or agency that has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, public school academy corporation, public state university, or by the department or state board.

**SCREENING:** A continuous fence, wall compact evergreen hedge or combination thereof, supplemented with landscape planting, that would effectively screen the property which it encloses, and is broken only by access drives and walks. (*See CLEAR VISION ZONE; see FENCE; see HEDGE.*)

**SENIOR APARTMENTS:** (*see Housing for the Elderly.*)

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

**SETBACK:** The horizontal distance between the front side or rear line of the building, excluding steps or open porches and the front street or right-of-way line. The required setback area is that area encompassed by the respective lot lines and setback lines. (*See illustration "Lot Terms".*)

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

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

**SHOPPING MALL:** A shopping center in which access by the general public to each individual store, premises or commercial establishment is obtained from the outside through a common entrance or entrances and from the inside through a covered common mall or aisle.

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

**SINGLE FAMILY DWELLING UNIT:** A dwelling unit designed for and occupied by one family.

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

**SNOWMOBILE:** Any motorized vehicle designed for travel primarily on snow or ice, steered by

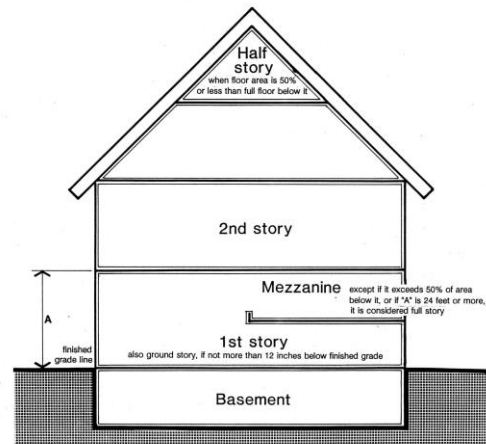
means of wheels, skis or runners. (See *RECREATIONAL VEHICLE*.)

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

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

**STATE LICENSED RESIDENTIAL FACILITY:** A structure constructed for residential purposes that is licensed by the state pursuant to Act 218 of the Public Acts of 1979, as amended (MCLA 400.701 et seq.), or Act 116 of the Public Acts of 1973, as amended (MCLA 722.111 et seq.), which facility provides resident services and 24 hour supervision or care for six (6) or fewer persons in need of supervision or care.

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



Basic Structural Terms

A. **MEZZANINE:** An intermediate level between the floor and ceiling of any story. A mezzanine floor may be used in this definition of a full story when it covers more than 50 percent of the area of the story underneath said mezzanine, or, if the vertical distance from the floor next below it to the floor next above it is 24 feet or more.

B. **BASEMENT:** For the purpose of this Ordinance, a basement shall be counted as a story if over 50 per cent of its height is above the level from which the height of the building is measured, or, if it is used for dwellings purposes by other than a janitor or domestic servants employed in the same building, including the family of the same.

C. **HALF STORY:** That part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half ( $\frac{1}{2}$ ) the floor area of said full story, provided the area contains at least 200 square feet with a clear height of at least seven (7) feet and six (6) inches. (See *diagram: "Basic Structural Terms"*).

**STREET:** The public thoroughfare which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and other thoroughfare, except an alley.

**STREET LINE:** The dividing line between the street and the lot.

**STREET, PRIVATE:** A street not accepted by the City as a public thoroughfare or a street designated as a private street upon a recorded plat.

**STREET, PUBLIC:** A street accepted by dedication or otherwise by the City.

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

**SUBDIVISION:** A subdivision as defined in the City of Harper Woods Code of Ordinances.

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

**TEMPORARY USE:** A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

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

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

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

**TRAVEL TRAILER:** A portable vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging, but which does not exceed eight (8) feet in width or 32 feet in length. This term also includes folding campers and truck-mounted campers but not mobile homes.

**TRUCK:** Any motor vehicle which carries a truck license, including tractor and trailer trucks.

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

- A. **ACCESSORY:** A use naturally and normally incidental to, subordinate to, and devoted exclusively to the main use of the premises.
- B. **LEGAL NONCONFORMING:** A use which lawfully occupied a building or land at the effective date of this Ordinance, or amendments thereto, that does not conform to the use regulations of the district in which it is located.
- C. **ILLEGAL NONCONFORMING:** A use which does not conform to the use regulations of the district in which it is located and which did not conform to said use regulations at the time it was established.

**UTILITY ROOM:** A room in a dwelling, not located in the basement, the use of which is primarily

for storage or for housing a heating unit, or for laundry purposes.

**VARIANCE:** A modification of the literal provisions of the Zoning Ordinance which is granted by the Zoning Board of Appeals when strict enforcement would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. Hardships based solely on economic considerations are not grounds for a variance. Variances are regulated by Section 10-841.

**VETERINARY CLINIC OR HOSPITAL:** An office of a duly licensed veterinary professional where diagnosis, treatment, surgery and other veterinary care for domestic animals, horses and livestock, and all other activities and rooming of animals are conducted within a completely enclosed building. A veterinary hospital may include outdoor boarding incidental to treatment.

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

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

**WHOLESALE:** The sale of commodities to retailers or jobbers and shall include the sale of commodities for the purpose of carrying on any trade or business even if the said trade of business is the consumer or end user of the commodity.

**YARD:** The open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Zoning Code.

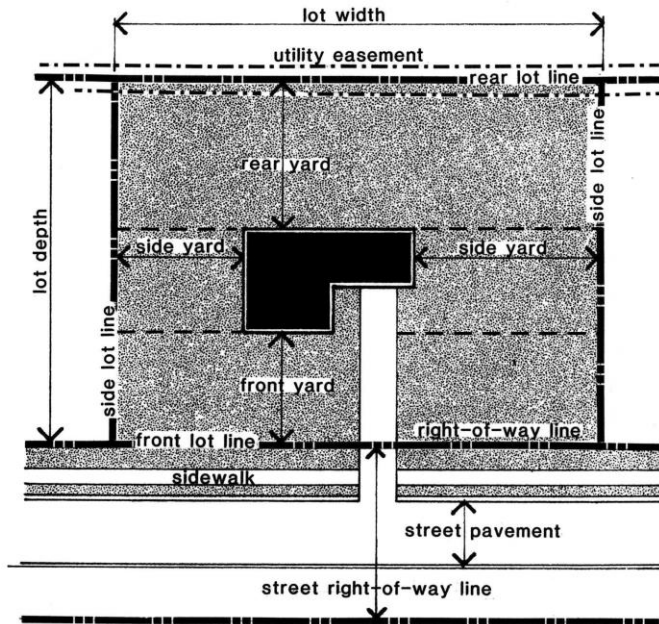
**YARD, REQUIRED:** An open space of prescribed width or depth, adjacent to a lot or property line, on the same land with a building or group of buildings, which open space lies in the area between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein. This regulation shall not include



eaves provided that an eight (8) foot height clearance is provided above the adjacent ground level. (See diagram: "Yard Terms").

- A. FRONT: An open space extending the full width of a lot and of a depth measured horizontally at right angles to the front property line, lot line, or right-of-way line.
- B. REAR: An open space extending the full width of a lot and of a depth measured horizontally at right angles to the rear property line, lot line, or right-of-way line, except as otherwise provided in this Chapter.
- C. SIDE: An open space extending on each side of the lot from the required front yard to the required rear yard, and of a width measured horizontally at right angles to the respective side property line, lot line, or right-of-way line.

ZONING BOARD OF APPEALS:  
The City of Harper Woods, Zoning  
Board of Appeals



**Yard Terms**

### **Section 10-130 Zoning Districts.**

The City of Harper Woods is hereby divided into ten districts, named as follows:

- R-1A One Family Residential District
- R-1B One Family Residential District
- R-1C One Family Residential District
- R-2 Two Family - Multiple Family Residential District
- RO-1 Restricted Office District
- C-1 General Business District
- C-2 Special Business District
- RS-1 Regional Shopping District
- O-1 Organizational District

### **Section 10-131 Zoning Map.**

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

### **Section 10-132 District Boundaries.**

Except where reference on said Map to a street or other designated line by the dimensions shown on said Map, the district boundary lines follow lot lines or the center lines of the streets or alleys or such lines extended and the corporate limits of the City of Harper Woods, as they existed as the time of the adoption of this Chapter.

### **Section 10-133 Lots Divided by District Boundary.**

Where a district boundary line, as established in this section or as shown on the Zoning Map, divides a lot which was in a single ownership and of record at the time of enactment of this Chapter, the use authorized thereon and the other district requirements applying to the least restricted portion of such lot, under this Chapter, shall be considered as extending to the entire lot, provided that the more restricted portion of such lots is entirely within 25 feet of said dividing district boundary line. The use so extended shall be deemed to be conforming.

### **Section 10-134 Zoning of Street and Alley Rights of Way.**

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

### **Section 10-135 Authority to Interpret Location of District Boundaries.**

Questions concerning the exact location of district boundary lines shall be determined by the Zoning Board of Appeals after recommendation from the City Planning Commission, according to rules and regulations which may be adopted by it.

1. The boundaries of zoning districts are intended to follow center lines of alleys, streets, or other rights-of-way, water courses, or lot lines, or be parallel or perpendicular thereto, unless such district boundary lines are otherwise clearly indicated on the Zoning Map.
2. Where district boundaries are so indicated that they approximately follow lot of record lines, such lines shall be construed to be boundaries.
3. In unsubdivided property, or where a district boundary divides a lot of record, the location of such boundary, unless shown by dimensions of the Zoning map, shall be determined by use of the map scale shown thereon.

### **Section 10-136 Amendments to Zoning District Boundaries.**

The Board in arriving at a decision on such matters shall apply the following standards:

If, in accordance with the provisions of this Ordinance and Act 110, of the Public Acts of the State of Michigan, 2006, as amended, and Section 10-780, changes are made in district boundaries or other matter portrayed on the Zoning Map, such changes shall be entered on the Zoning Map promptly after the amendment has been approved by the City Council and has been published in a newspaper of general circulation in the City. The changes in the district boundaries or other matters affecting the Zoning Map shall be clearly portrayed on the Zoning Map and reference made to the ordinance number and date of publication effecting the change shall be written on such portrayal, signed by the Mayor and attested by the City Clerk.

No changes of any nature shall be made to the Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided for in this Ordinance.

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

## **ARTICLE II - GENERAL PROVISIONS**

### **Section 10-200 General Authority.**

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

### **Section 10-201 Conflicting Regulations.**

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

### **Section 10-202 Scope.**

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

### **Section 10-203 Permitted Uses.**

No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used, designed or arranged for any purpose other than is permitted in the district in which the building or land is located.

### **Section 10-204 Permitted Area.**

No building shall be erected, converted, enlarged, reconstructed or structurally altered, except in conformity with the area regulations of the district in which the building is located.

### **Section 10-205 Permitted Height.**

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

### **Section 10-206 Construction Begun Prior to Adoption of Chapter.**

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

**Section 10-207 Buildings to be Moved.**

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

**Section 10-208 Approval of Plats.**

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

**General Lot Development Provisions**

**Section 10-210 General Lot Development Restrictions.**

**Section 10-211 Zoning Lot.**

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

**Section 10-212 Lots, Yards and Open Spaces.**

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

**Section 10-213 Street Access.**

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

**Section 10-214 Number of Buildings on Lot.**

Each dwelling hereafter erected or structurally altered shall be located on a lot and, except in the case of a multiple dwelling residential development, there shall be not more than one (1) main building and an accessory building on any single lot. In order to permit the assembly of two or more adjoining lots by the owner of said lots for the purpose of erecting or constructing a principal building on said lots, there shall be required a declaration of restrictions running with the land executed by the owner and recorded with the Wayne County Register of Deeds, consolidating the lots into one single parcel which shall henceforth be deemed by the Building Inspector as a single lot and subject to all of the provisions contained in this Section. The location of said dwelling and

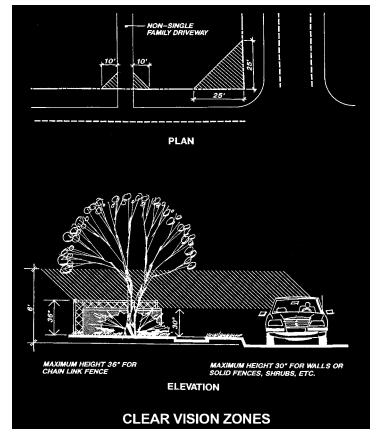
its accessory building on said lot shall conform with the general plan and scheme of the subdivision in which the lot is located.

**Section 10-215 Visibility (Clear Vision Zone Triangle).**

No structure, wall, fence, shrubbery or trees shall be erected, maintained or planted on any lot which will obstruct the visibility of the driver of a vehicle approaching an intersection, excepting that shrubbery and low retaining walls not exceeding two and one-half (2½) feet in height above the curb level and shade trees where all branches are not less than eight (8) feet above the street level will be permitted. For residential corner lots, this area of unobstructed visibility will be a triangular section of land formed by the two street curb lines and a line connecting them at points 30 feet from the intersection of said curb lines. (See diagram: “Clear Vision Zone”)

**Section 10-215.1 Obstruction of Visibility from Driveways.**

For residential and non-residential driveways, no obstructed visibility, shall be permitted within 20 feet of the street right-of-way line. For the purpose of this section, obstructed visibility shall be defined as a area free from any structure, wall, fence, shrubbery or trees that obstruct the visibility of the driver of a vehicle in the driveway within the area above two and one-half feet and below six (6) feet above the driveway level. (See diagram: “Clear Vision Zone”)



**General Use Restrictions**

**Section 10-221. Dwellings in Non-Residential Districts.**

No dwelling unit shall be erected in the C-1, C-2, RS-1, O-1 and RO-1 Districts. However, the sleeping quarters of a watchman or a caretaker may be permitted in said districts in conformance with the specific requirements of the particular district.

**Section 10-222. Dwellings in Other Than Main Structures.**

No residential structure shall be erected upon the rear of a lot or upon a lot with another dwelling.

**Section 10-223. Voting Place.**

The provisions of this Chapter shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

**Section 10-225 Accessory Buildings.**

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

- A. Accessory buildings, structures and uses are permitted only in connection with, incidental to, and on the same lot with a principal building, structure or use which is permitted in the particular zoning district.

- B. An accessory building, structure or use must be in the same zoning district as the principal building, structure or are on a lot.
- C. No accessory building, structure or use may be placed on a lot without a principal building, structure or use.
- D. No accessory building structure or use shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.
- E. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this Section applicable to main or principal buildings.
- F. Only one garage and one additional accessory building may be erected on any single lot, subject to setback, lot coverage, and other standards of this Section. Accessory buildings shall not be erected in any required yard except a rear yard, provided further that in no instance shall such a building be nearer than three (3) feet to any adjoining lot line except that on a corner lot the entrance to a garage shall not be less than 15 feet from the lot line adjacent to the side street, and except as provided in paragraphs (7) and (8) below.
- G. An accessory building, not exceeding 15 feet in height, may occupy not more than 25 percent of a required rear yard, plus 40 percent of any non-required rear yard; provided, that in no instance shall the accessory building exceed the ground floor area of the main building.
- H. An accessory building shall be located in the rear yard except when structurally attached to the main building.
- I. No detached accessory building shall be located closer than 10 feet to any main or principal building.
- J. In the case of double frontage lots, accessory buildings shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on said streets in the same block or adjacent blocks.
- K. When an accessory building is located in the rear yard area on a corner lot, the side lot line of which is substantially a continuation of the required front yard setback of the lot to its rear, said accessory building shall be set back from the street side at least as far as the required front yard setback of the lot at the rear of the subject corner lot.
- L. In any residence zone, no garage shall be erected closer to the side lot line than the permitted distance for the dwelling unless the garage shall be completely to the rear of the dwelling, in which event the garage may be erected three (3) feet from the side lot line. No garage or portion thereof shall extend into the required front yard area.

Attached garages of fireproof construction may be erected to extend beyond the front line of the house in those areas which are being developed according to a common plan that includes the construction of attached garages extending beyond the front line of the house, except that such garage shall not encroach in or upon the minimum front yard area as required by this Chapter, and provided, the cornice, eaves or overhand shall not extend more than six (6) inches into the required side yard area.

- M. No garage, utility or accessory building shall be constructed upon or moved to any parcel of property until the principal building on, or intended to be placed thereon, is at least two-thirds (2/3) completed.
- N. The total area occupied by a detached accessory building, other than a garage on the lot, shall not exceed 150 square feet on said lot. No accessory building may be closer than four (4) feet to any other accessory building.
- O. Storage buildings shall be constructed on a concrete slab at least four (4) inches in depth and surrounded by a trench four (4) inches in width and twenty-four inches in depth.

**Section 10-226 Outside Storage.**

No machinery, equipment, vehicles, lumber piles, crates, boxes, building blocks or other materials either discarded, unsightly or showing evidence of a need for repairs, with or without current license, shall be stored, parked, abandoned or junked in any open space that is visible from the street, public place or adjoining residential property; and should such use of land occur, it shall be declared to be a nuisance. If such nuisance is not abated within 10 days after the owner of such land is notified by the City Manager or his agent, then the City may perform the necessary work to eliminate the nuisance at the expense of the property owner; and in the event the property owner fails to reimburse the City within 30 days after receiving notice of the amount due from the City Treasurer, then the amount shall become a lien upon said property.

**Section 10-226.1 Storage in Yards and Open Areas.**

No front or other yard or other open space, whether or not required by the Zoning Ordinance in the Schedule of Regulations, Section 10-601, shall be used for the storage of new or used material or equipment.

**Section 10.226.2 Storage of Fireplace Fuel.**

All fireplace fuel stored outside shall be stacked in a safe and orderly arrangement in the rear yard and elevated at least 12 inches above the ground in such a manner as to prevent the nesting of rodents and not constitute a fire hazard.

**Section 10-226.3 Parking and Storage of Mobile Homes and Recreational Vehicles.**

Mobile homes, travel trailers, motor homes, boats, trucks, and other items shall be subject to the following requirements: (See also Section 10-226.1 STORAGE IN YARDS AND OPEN AREAS.)

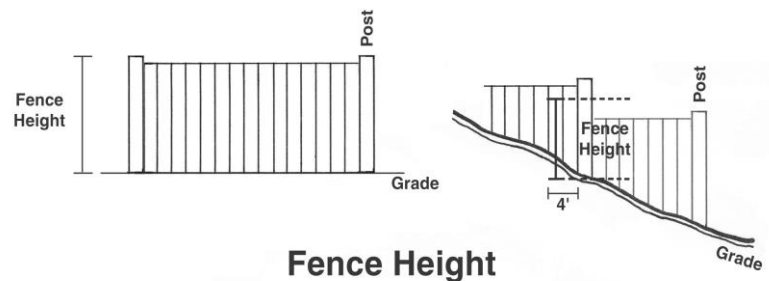
- A. On lots zoned for residential use, the maximum permitted lot coverage of all buildings, including travel trailer or boat storage space, shall not be exceeded.
- B. It shall be a prohibited use in all residentially zoned districts to park or store power driven construction equipment, used lumber or metal, or any other miscellaneous scrap or salvageable material.
- C. It shall be a prohibited use in all residentially zoned districts to park or store wrecked or junked motor vehicles, boats, travel trailers, or any part or parts thereof.



## Section 10-228 Fences and Walls.

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

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

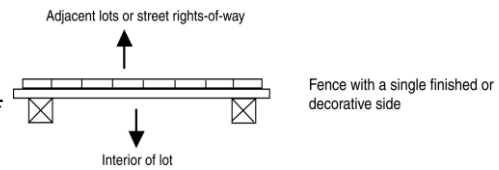


## B. Obstruction of Visibility or Use of Adjoining Property

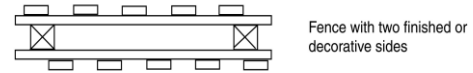
1. **From Street.** No fence or wall in a front yard on a corner lot, within a triangular section of land formed by the two (2) street curb lines shall exceed 30 inches in height above the curb level, as specified in Section 10-215, Visibility (Clear Vision Zone Triangle).
2. **From Driveways.** No fence or wall shall obstruct the visibility from a residential or non-residential driveway, as specified in Section 10-215.1, Obstruction of Visibility from Driveways.
3. **From Adjacent Homes.** If adjacent homes have staggered front building lines, fences or walls normally allowed in back of the front building line shall not project any further into the front yard than the front building line of the adjacent home or the home with the proposed fence, whichever is a greater distance from the street.
4. **Within Front Yards.** To maintain maneuverability for vehicles and pedestrians in driveways, all fences, walls or ornamental objects located within the required front yard adjacent to a neighboring driveway shall be setback a minimum of two (2) feet from the front lot line and driveway.

C. **Fences on Lot Lines.** Fences located within required side and rear yards may be erected on the lot line with the written consent of all adjacent property owners.

D. **Orientation of Finished Side.** Where a fence has a single finished or decorative side, it shall be oriented to face outward towards adjacent parcels or street rights-of-way (away from the interior of the lot to which the fence is associated). See *diagram: Orientation of Finished Side - Top View*.



E. **Site Drainage and Utilities.** Fences shall not be erected in a manner that obstructs the free flow of surface water or causes damage to underground utilities.



F. **Fence Construction.**

Orientation of Finished Side - Top View

1. All fences and walls shall be of uniform design, construction and appearance and sturdily constructed to withstand normal weather conditions.
2. All fences and walls shall be erected and maintained so as not to pose a safety hazard.
3. All fences shall be freestanding with their own post support structure. Two separate and distinct fences shall not share post supports.

G. **Prohibited Fences.** Barbed-wire and electrified fences are prohibited, except where, for the purpose of ensuring public safety, the Planning Commission may approve such fences as part of an approved site plan.

### Section 10-229 Essential Services.

Essential services, as defined in Section 10-120, shall be permitted as authorized and regulated by Federal, State and City statutes and ordinances, if being the intention thereof to exempt such essential services from those regulations governing area, height, placement, and use of land in the City with which compliance would be impractical or unfeasible.

Although exempt for certain regulations, proposals for construction of essential services shall still be subject to site plan review requirements, as specified in Section 10-760 through 10-764, it being the intention of the City to achieve efficient use of the land and alleviate adverse impact on nearby uses or lands. Essential services shall comply with all applicable regulations that do not affect the basic design or operation of said services.

### Section 10-230 Sidewalks and Pedestrian Facilities.

Sidewalks shall be required in all zoning districts along street rights-of-way, and to connect public sidewalks to building entrances. Sidewalks shall be designed and constructed in conformance with the current standards of the City, to ensure reasonable accessibility by persons with a physical disability. Pedestrian facilities shall also be provided within the site to protect pedestrians in parking lots, and to connect developments with adjacent lots.

### **Section 10-232 Restoration of Unsafe Buildings.**

Nothing in this Chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Building Inspector or the required compliance with his lawful order.

### **Section 10-233 Excavations or Holes.**

The construction, maintenance or existence within the City of Harper Woods of any unprotected, unbarricaded, open or dangerous excavations, holes, pits or wells, or of any excavations, holes or pits which constitute or are reasonably likely to constitute a danger or menace to public health, safety or welfare, are hereby prohibited; provided, however, this section shall not prevent any excavation under a permit issued pursuant to this Chapter or the Building Code of the City of Harper Woods, where such excavations are properly protected and warning signs posted in such manner as may be approved by the Building Department.

### **Section 10-234 Grading.**

A sloping grade of one (1) foot above the street level or other grade established by the City Engineer shall be required of all buildings having a front yard space, except where front yard space is provided in excess of 25 ) feet in which case the grade may be increased an additional one quarter inch for each foot or additional front yard space to 50 feet. In no case shall the grade exceed 18 inches above the street.

All rear yards shall be graded so as to provide a gradual sloping grade from the rear wall of the building to the rear lot line. The grade at the rear wall shall be substantially the same as that established at the front wall. The grade at the rear lot line shall be that as established by the Building Inspector.

### **Section 10-235 Excavation, Removal, or Filling of Land.**

The use of land for the excavation, removal, filling or depositing of any type of earth material, topsoil, gravel, rock, garbage, rubbish, or other wastes or by-products, is not permitted in any zoning district except under a certificate from, and under the supervision of the Building Department in accordance with a topographic plan, approved by the City Engineer, submitted by the fee-holder owner of the property concerned. The topographic plan shall be drawn at a scale of not less than 50 feet equals one (1) inch and shall show existing and proposed grades and topographic features and such data as may from time to time be required by the City Engineer. Such certificate may be issued in appropriate cases upon the filing with the application of a cash bond or Surety Bond by a surety company authorized to do business in the State of Michigan running to the City in an amount as established by the City Engineer which will be sufficient in amount to rehabilitate the property upon default of the operator of such other reasonable expenses. This regulation does not apply to normal soil removal for basement or foundation work when a building permit has previously been duly issued by the Building Department.

### **Section 10-237 Signs.**

The erection, construction or alteration of all outdoor advertising structures, billboards, signs, and other notices that advertise a business, commercial venture or name of a person or persons shall be approved by the Building Inspector as to compliance with all applicable City sign regulations and ordinances and all requirements of this Chapter.

**Section 10-239 Keeping of Animals and Fowl.**

The keeping of animals and fowl shall be governed by Chapter 4 of the Code of General Ordinances.

**Provisions for Specific Uses**

**Section 10-240 Provisions for Specific Uses, Intent and Scope.**

Each use listed in Sections 10-241 through 10-259, whether permitted by right or subject to approval as a special land use, shall be subject to the site development standards specified, in addition to applicable standards and requirements for the district in which the use is located. These standards are intended to alleviate the impact from a use that is of an area, intensity or type, or that possesses characteristics that are unique or atypical for the district in which the use is allowed. These standards are intended to assure that such uses will be compatible with surrounding land uses and ensure the orderly development of the district. Conformance with these standards shall be subject to site plan review. Unless otherwise specified, each use listed in this Article shall be subject to all applicable yard, bulk and other standards for the district in which the use is located.

**Section 10-241 Accessory Apartment Dwelling.**

An accessory apartment dwelling as defined in Section 10-120, is subject to the following regulations:

- A. **Incidental Use to Residence.** The accessory apartment shall be clearly incidental to the principal residence on the site. Accordingly, the following conditions shall apply:
  - 1. Accessory apartments shall be established in owner-occupied residences only; the principal residence shall remain owner-occupied as long as the accessory apartment dwelling remains in existence.
  - 2. Only one (1) such accessory dwelling shall be permitted on each zoning lot.
  - 3. The total floor area of the accessory dwelling shall not exceed 600 square feet.
  - 4. The accessory apartment shall occupy no more than 40 percent of the gross floor area of the principal building.
  - 5. The exterior of the principal building shall remain unchanged, so that it does not give the appearance of being divided into separate units. Access to accessory apartments shall be limited to a common entrance foyer or a separate entrance door on the side or rear of the principal building.
- B. **Setbacks and Placement on the Parcel.** An accessory dwelling shall comply with all setback requirements for the district in which it is located.
- C. **Compatibility with Surrounding Land Use.** The design of the accessory dwelling shall not detract from the single-family character and appearance of the principal residence or the surrounding neighborhood. The accessory dwelling shall not have a front entrance visible from the front yard, other than the entrance that serves the principal residence.

When viewed from the outside, it shall not appear that more than one household occupies the site.

- D. **Parking and Access.** In addition to required parking for the principal residence, one additional parking space shall be provided for the accessory dwelling.

### **Section 10-242 Multiple Family Dwellings and Developments.**

- A. **Street Design and Vehicle Circulation.** Street connections shall be provided to adjacent neighborhoods and parcels in residential districts. Ingress and egress from the public streets shall be designed to minimize congestion and interference with normal traffic flow. All interior roads, drives, and parking areas within a multi-family development shall be hard surfaced and provided with curbs and gutters. Roadway drainage shall be appropriately designed such that storm water from the roadway will not drain onto the adjacent lots. All access drives shall be twenty-four feet (24') in width.
- B. **Pedestrian Circulation.** Minimum five-foot (5') wide concrete sidewalks shall be provided from parking areas, public sidewalks and recreation areas to all building entrances. Public sidewalks shall be provided along collector roads and streets with a minimum width of six feet (6').
- C. **Architectural Details.** Walls visible from a street or other residential uses shall include windows and architectural features similar to the front facade of the building, including, but not limited to awnings, cornice work, edge detailing or other decorative finish materials. All buildings shall have pitched roofs, which may include functional dormer windows and varying lines customary with gable or hip style roofing. Standing seam metal roofing is prohibited.
- D. **Recreation Areas.** Passive or active recreation areas (including but not limited to seating areas, playgrounds, swimming pools, walking paths and other recreational elements in accordance with the intended character of the neighborhood) shall be provided at a ratio of at least 15 percent of the gross area of the development. The minimum size of each area shall be not less than 5,000 square feet, and the length to width ratio of each area, as measured along the perimeter, shall not exceed four to one (4:1). Such areas shall be centrally and conveniently located to be physically and visibly accessible to residents, and shall not be located within any required yard setbacks or building separations.
- E. **Additional Requirements.** The requirements of Section 10-242.2 and 242.3 shall apply to multiple residential housing.

### **Section 10-242.1 Housing for the Elderly.**

The following site development standards shall apply to housing for the elderly:

- A. **Minimum Floor Area.** Dwelling units within a building shall average 500 square feet in floor area (not including kitchen and sanitary facilities).
- B. **Lot Coverage.** Total coverage of the all buildings, including dwelling units and related service buildings and in-ground pools (water area), shall not exceed 35 percent of the total site, exclusive of any dedicated public right-of-way.

- C. **Additional Requirements.** The requirements of Section 10-242.2 and 242.3 shall apply to housing for the elderly projects.

**Section 10-242.2 Requirements for Planned Multiple Residential Housing and Housing for the Elderly.**

Planned multiple residential housing and housing for the elderly projects exceeding two (2) stories in height shall comply with the following requirements:

- A. Minimum net lot area shall be two and one-half (2½) acres.
- B. Total floor area of all buildings on the lot shall not exceed the total net floor area. (Floor area ratio of 1.0.)
- C. In addition to the specific requirements for the side, front and rear yards specified in Section 10-601, each side and front yard shall be increased by five (5) feet for every story in the building the major portion of which is above 70 feet in height. Where two (2) or more buildings are to be located on a single lot, the space between buildings shall be at least 40 feet plus five (5) feet for each story by which the building exceeds seven (7) stories.

**Section 10-242.3 Incidental Services in High Rise Apartment Buildings and Housing for the Elderly.**

Incidental services for the convenience of occupants, such as news, tobacco or candy stands, delicatessens, restaurants, personal service shops and similar uses, shall be permitted within high rise apartment buildings and housing for the elderly, provided the following conditions are fulfilled:

- A. At least 75 dwelling units are contained within the apartment building or apartment building group.
- B. A total of not more than two (2) percent of the gross floor area of the building is utilized for said incidental services.
- C. All such incidental services are situated within the interior of the building so that no part thereof is directly accessible to the general public or to tenants from any street or public or private way.
- D. No sign or window display is discernible or visible from a sidewalk, street, or public or private way.
- E. Such incidental services are not provided on the same floor as dwelling units are situated, unless separated therefrom by an un-pierced fire wall.

**Section 10-243 Single Family Cluster Option.**

Except as stated within this section, an application for approval of a site plan for a residential cluster option shall follow the procedures and requirements established for a special use approval as stated in Section 10-770. The following standards shall apply to single family cluster projects:

- A. **Intent.** The intent of the Single Family Cluster Option is to provide the opportunity for creative design in single family residential districts to accomplish the following primary objectives:

- To promote a higher quality of development than could be achieved under conventional zoning regulations.
- To encourage innovation in land use and variety in design, layout, and type of structures constructed.
- To provide a feasible means of residential development on sites that would otherwise be difficult or impossible to develop because of the parcel size or shape, the character of surrounding land uses, or other constraints.

**B. Eligibility Criteria.**

1. In considering any proposal for the Single Family Cluster Option, the Planning Commission shall determine that the proposal satisfies one or more of the following eligibility criteria:
  - a. The overall impact of the development will provide a recognizable and substantial benefit to its ultimate residents and to the community.
  - b. The parcel has narrow width, shallow depth, or an unusual configuration that is a substantial detriment to development as a conventional subdivision.
  - c. A significant portion of the property's perimeter is bordered by a major thoroughfare so that, if developed as a conventional subdivision, a substantial number of the lots would abut the thoroughfare and be impacted by negative traffic noise and lights.
  - d. A substantial portion of the property's perimeter is bordered by land that is zoned or used for more intensive non-residential development that would be potentially incompatible with single family residents without special design preferences.
  - e. The parcel contains natural assets that would be preserved or enhanced through the use of cluster development. Such assets may include stands of trees, land that serves as a habitat for wildlife, unusual topographic features, or other natural assets that should be preserved.
2. An application for the Single Family Cluster Option shall be accompanied by written and graphic documentation demonstrating to the Planning Commission that the proposal satisfies one or more of the listed eligibility criteria.

- C. Project Density.** The overall density of development on a site that qualifies for cluster development shall not exceed the standards for net density as established by the underlying zoning regulations for the district in which the site is located. The net density of a development shall be computed by dividing the total number of units proposed to be devoted to residential use (residential lots and open space, excluding public and private streets and public right-of-way). The quotient shall be rounded to the nearest tenth of an acre.

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

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

**D. Site Design Requirements.** Single family cluster developments shall comply with the following requirements:

1. Clustering Alternatives.

a. Attached Unit Clusters

A maximum of four (4) single-family dwelling units may be attached to each other provided that measures are taken to avoid monotonous facade design or the appearance of massive buildings that are out-of-scale with surrounding single family development. The attached units shall be offset from one another, and/or different design details (i.e., different building entrance designs, different building materials, etc.) shall be used for each unit. (See diagram: Attached Unit Cluster.)

b. Detached Unit Clusters

A maximum of four (4) single-family detached units may be combined into a single cluster, provided that the units shall be spaced not less than 10 feet apart. This spacing requirement may be waived or modified by the Planning Commission during site plan review, based upon a favorable recommendation of the City Fire Chief. (See diagram: Detached Unit Cluster.)

2. Open Space.

a. General Requirements

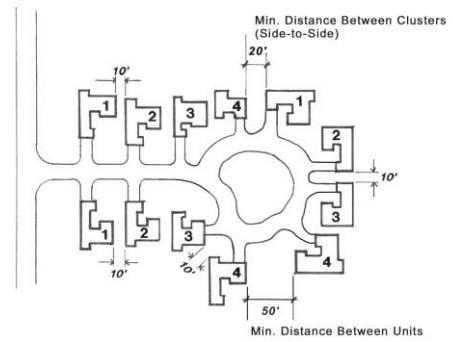
Single family cluster developments shall provide and must maintain at least 15 percent of the site as dedicated common open space.

b. Water Bodies and Basins

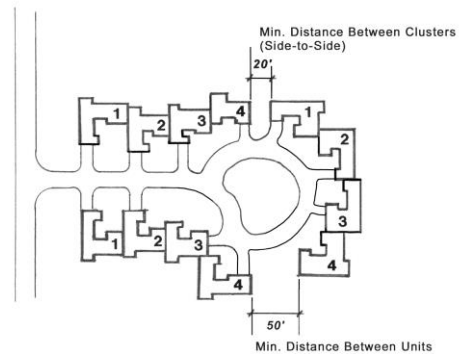
Up to 25 percent of the required open space may include the area of any created water bodies or water detention/retention basins.

c. Conveyance of Open Space

The required open space shall be set aside by the developer through an irrevocable conveyance, such as a deed restriction(s) or covenant(s) that run with the land, assuring that the open space will be developed, dedicated



**Detached Unit Cluster**



**Attached Unit Cluster**



and continually maintained according to the site plan and never changed to another use.

3. Setbacks.

a. Setbacks between Clusters

Each cluster of attached or detached dwelling units shall be set back a minimum distance of 50 feet from any other cluster, except that the minimum setback for adjoining clusters that have a side-to-side building relationship shall be 20 feet.

b. Building Setbacks. Buildings within each cluster shall comply with the following minimum setbacks:

Internal private street: 20 feet from edge of traveled roadway;

Public street right-of-way: 25 feet;

Property line (other than street right-of-way): 25 feet;

Utility easement (other than individual unit lead): 12 feet.

4. Landscaping. Single family cluster developments shall comply with the landscaping requirements specified in Section 10-282 (including 10-282.1 through 10-282.6).

5. Transition in Density. Where the parcel proposed for use as a cluster development abuts a conventional single family development, the cluster development shall be designed to provide an orderly transition between the two developments. Such a transition may be achieved by providing a buffer zone consisting of any of the following: open space, additional landscaping, berms, changes in topography, or similar measures.

6. Sidewalks. Sidewalks shall be provided along all public and private roads within the cluster development.

7. Utility Connections. Each dwelling unit shall be separately connected and metered for City water and sewer service.

E. **Determination of Eligibility.** The application for cluster development shall include documentation that the proposal satisfies one or more of the eligibility criteria set forth in subsection B.1. The Planning Commission shall make a preliminary determination whether the proposal qualifies for the cluster option, based on the submitted documentation.

F. **Effect of Preliminary Eligibility Determination.** Preliminary determination by the Planning Commission that a parcel qualifies for cluster development does not assure approval of the site plan. Such a determination, however, does give the applicant the opportunity to proceed further with site plan review.

- G. **Site Plan Review.** A cluster housing development shall be subject to the site plan review requirements in Section 10-760 through 764 of this Ordinance, as well as the additional requirements in this Section.
- H. **Information Required for Site Plan Review.** In addition to the information required in Section 10-762.B. as a part of site plan review, the following information shall be included on all cluster option plans submitted for review:
- Acreage and density computations.
  - Setbacks from all property lines and distances between all buildings and between buildings and roads.
  - Proposed landscape screening along the perimeter and within the site.
  - Specific locations of significant site features such as tree stands and water retention and detention areas.
  - Delineation of open space areas and detailed information concerning common access and proposed landscaping or other improvements within the open space.
- I. **Recording of Planning Commission Action.** Each action taken with reference to a cluster development proposal, including the grounds for the action taken, shall be duly recorded in the minutes of the Planning Commission.
- J. **Recording of Documents.** If the Planning Commission approves the cluster development proposal, all requirements and conditions upon which such approval is based shall be included as part of the approved site plan. Easements, deed covenants or deed restrictions shall be drafted into recordable forms, reviewed and approved as to form by the City Attorney, and filed by the applicant, with the appropriate County agency prior to the issuance of a building permit for any construction.
- K. **Performance Guarantee.** A performance guarantee shall be deposited with the City to ensure faithful completion of improvements, in accordance with Section 10-740.

#### **Section 10-244 Home Occupations.**

- A. **Intensity of Use.** Home occupations must be conducted within a principal dwelling unit and permitted accessory structures and shall not occupy more than 25 percent of the gross floor area of the structure. The exterior of the dwelling shall not be altered from its residential appearance.
- B. **Parking and Loading.** Home occupations shall be limited to the parking and storage of one (1) commercial vehicle on the premises not exceeding a three-quarter (3/4) ton capacity, provided such vehicle is directly related to the home occupation. Delivery vehicles used to deliver goods to a home occupation are limited to automobiles, passenger vehicles, mail carriers and express package carriers. Deliveries shall be permitted only between the hours of 8:00 a.m. and 8:00 p.m.
- C. **Performance Standards.** The home occupation shall comply with the following:

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

D. **Permitted Uses.** The following uses are permitted home occupations. Any home occupation not specifically listed may be permitted as a special approval use, subject to the provisions of Section 10-770.

1. Home offices for such professionals as architects, doctors, brokers, engineers, insurance agents, lawyers, real estate agents, accountants, writers, salespersons and similar occupations.
2. Individual instruction, including music, dance, art and craft classes, tutoring, and studios for artists sculptors, musicians and photographers.
3. Workshops for tailors, dressmakers, milliners, and craft persons, including weaving, lapidary, jewelry making, cabinetry, and woodworking.
4. Repair services for watches and clocks, small appliances, computers, electronic devices, and similar small devices.
5. Telemarketing and on-line marketing.

#### **Section 10-245 Bed and Breakfast Inn.**

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

The following standards shall apply to bed and breakfast inns:

- A. **Primary Residence.** The dwelling shall be the primary and permanent residence of the bed and breakfast inn operator. Meals or other services provided on the premises shall be available only to residents, employees and overnight guests of the establishment.
- B. **Guests.** The number of guest rooms shall be limited to one (1) less than the total number of bedrooms in the dwelling unit, not to exceed five (5) guest rooms total. The maximum number of guests at any given time shall be limited to three (3) times the number of guest rooms. Guests may stay no longer than 14 days in succession or a total of 60 days in any 12 month period.
- C. **Parking.** Off-street parking shall be provided for guests outside of any required front yard. Stacking of more than two (2) vehicles in a driveway is prohibited.

- D. **Landscaping.** Site landscaping and screening from adjacent residences and parking areas or any outdoor eating or activity area, shall be provided in compliance with Section 282 (including Sections 10-282.1 through 10-282.6).

**Section 10-246 Place of Worship and Place of Assembly.**

As such land uses may be permitted in the various zoning districts, the following regulations shall apply to places of worship, places of assembly, and similar uses having a capacity in excess of 25 persons.

- A. **Setbacks.** Minimum side yard and rear yard width shall be not less than 25 feet.
- B. **Lot Width.** Minimum lot width shall be 150 feet.
- C. **Height.** For every foot of height by which the building, exclusive of spire, exceed the maximum height limitation for the district, an additional (to the minimum) foot of front, side or rear yard setback shall be provided.
- D. **Access.** The lot location shall be such that at least one (1) property line abuts a major thoroughfare or collector street.
- E. **Distance from Dwelling.** The main and accessory buildings shall not be located nearer than one hundred (100) feet to any adjacent dwelling.
- F. **Parking.** There must be compliance with off-street parking requirements as specified under Section 10-421, Schedule of Off-Street Parking Requirements.
- G. **No Parking in Front Yard.** Off-street parking shall be prohibited within the required front yard setback area.
- H. **Accessory Facilities.** Accessory facilities such as fellowship or social hall, kitchen, gymnasium or recreation facilities, and other uses incidental to the primary use shall be permitted, subject to the requirements of this Ordinance.

**Section 10-246.1 Monasteries, Convents, and Residences of Religious Orders.**

A building used as a residence, operated as a single housekeeping unit, solely by and for a group of men or a group of women who have professed vows in a religious order and who live together as a community under the direction of a local supervisor designated by the order, without more than two (2) persons occupying a bedroom.

- A. **Primary Residence.** The dwelling shall be the primary and permanent dwelling of the residents. Meals or other services provided on the premises shall be available only to residents, employees and occasional guests of the establishment.
- B. **Residents.** The number of residents shall be limited to the total number of bedrooms in the dwelling unit.
- C. **Parking.** Off-street parking shall be provided for residents outside of any required front yard. Stacking of more than two (2) vehicles in a driveway is prohibited.

- D. **Landscaping.** Site landscaping and screening from adjacent residences and parking areas or any outdoor eating or activity area, shall be provided in compliance with Section 282 (including Sections 10-282.1 through 10-282.6).

**Section 10-247 Group Day Care Home, Child Care Center.**

The following regulations shall apply to:

- A. **Licensing.** In accordance with applicable state laws, all child care facilities shall be registered with or licensed by the Department of Social Services and shall comply with the minimum standards outlined for such facilities.
- B. **Outdoor Play Area.** A minimum of 150 square feet of outdoor play area shall be provided and maintained per child, provided that the overall area of the play area shall not be less than 5,000 square feet. The outdoor play area shall be five (5) feet in height screened from abutting residentially-zoned or used land by a solid fence or wall, which shall be landscaped in accordance with Section 10-282.
- C. **Frontage.** Child care centers shall front onto a thoroughfare or collector road that is constructed to City standards.
- D. **Setbacks.** Child care centers shall have a minimum side yard setback of at least 25 feet.

**Section 10-248 Hospital.**

The following regulations shall apply to hospitals:

- A. **Lot Area.** The minimum lot area for a hospital site shall be 10 acres.
- B. **Frontage and Access.** Hospitals shall front onto a major thoroughfare and the main means of access to the hospital for patients, visitors, and employees shall be via the thoroughfare. Secondary access to a hospital site may be off of a residential street.
- C. **Setbacks.** The principal building and all accessory buildings shall be set back a minimum distance of 50 feet from any property line. The Planning Commission may allow the placement of an eight (8) foot high obscuring masonry wall at the property line in lieu of the setback requirement.
- D. **Screening.** Ambulance, emergency entrance areas, and loading areas shall be effectively screened from view from all adjacent residential uses by the building design, landscaping, or a masonry wall.
- E. **State and Federal Regulations.** Hospitals shall be constructed, maintained, and operated in conformance with applicable state and federal laws, including provisions of the Michigan Hospital Survey and Construction Act, Public Act 299 of 1947, as amended.
- F. **Accessory Uses.** Accessory uses, such as a pharmacy, gift shop, cafeteria, place of worship, and similar uses shall be allowed within the principal building.
- G. **Traffic Impact Study.** A traffic impact study, in accordance with Section 10-484, shall be required for review by the Planning Commission.

**Section 10-249 Nursing Homes, Hospices, Convalescent Homes, Rest Homes, Assisted Living Facilities, Orphanages, and Adult Foster Care Facilities.**

The following regulations shall apply to nursing homes, hospices, convalescent homes, rest homes, orphanages, and half-way houses:

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

**Section 10-251 Funeral Homes or Mortuaries.**

The following regulations shall apply to funeral homes and mortuaries:

- A. **Minimum Lot Dimensions.** The funeral home or mortuary shall have a minimum lot area of one-half (0.5) acre and a minimum lot width of 150 feet.
- B. **Vehicle Assembly Area.** An adequate assembly area shall be provided off-street for vehicles to be used in funeral processions. All maneuvering areas and exit aprons shall be located within the site. Streets and alleys shall not be used for maneuvering or parking of vehicles.
- C. **Screening.** The service and loading area shall be obscured from adjacent residential areas in accordance with Section 10.281.

- D. **Caretaker's Residence.** A caretaker's residence may be provided within the main building of the funeral home or as an approved accessory building on the site, subject to the provisions of this Ordinance.
- E. **Traffic Impact Study.** A traffic impact study, in accordance with Section 10-484, may be required by the Planning Commission if the Commission determines that the traffic generated by the use could adversely affect the area.

**Section 10-252 Motels and Hotels.**

The following regulations shall apply to motels or hotels:

- A. **Lot Area.** The minimum lot area for a motel or hotel shall be three (3) acres.
- B. **Accessory Facilities.** A motel or hotel must include at least one (1) of the following amenities:
  - 1. An attached dining room with seating capacity for at least 20 occupants at the same time, serviced by a full service kitchen, or,
  - 2. An unattached standard restaurant, as defined in this Ordinance, with seating capacity for not less than 50 occupants, located on the same site as the motel or on a site contiguous with the motel and developed simultaneously or in advance of the motel site.
  - 3. An attached or detached community garage.
- C. **Design.** Each unit available for rental within a motel or hotel shall contain a bath and at least one (1) bedroom and encompass a minimum gross floor area of 350 square feet.
- D. **Services.** A motel or hotel shall provide customary motel services, such as maid service, linen service, telephone and/or desk service, and the use of furniture.
- E. **Traffic Impact Study.** A traffic impact study, in accordance with Section 10-484, may be required by the Planning Commission if the Commission determines that the traffic generated by the use could adversely affect the area.

**Section 10-253 Mini-Warehouses.**

The following regulations shall apply to mini-warehouses:

- A. **Lot Area.** The minimum lot area for mini-warehouses shall be two (2) acres.
- B. **Permitted Use.** Mini-warehouse establishments shall provide for storage only. All storage must be completely contained within an enclosed building.
- C. **Site Enclosure.** The entire site, exclusive of access drives, shall be enclosed with a six (6) foot high masonry wall, constructed in accordance with Section 10.281. A six (6) foot chain link fence may be permitted along property lines that do not abut a residentially zoned district or residential use.

- D. **Orientation of Open Bays.** Buildings must be oriented so that open service bays do not face adjacent major thoroughfares or arterial roads unless screened by an adjoining lot, building, or obscuring wall in compliance with Section 10.281.
- E. **Exterior Appearance.** The exterior of any mini-warehouse shall be of finished quality and design, compatible with the design of structures on surrounding property.
- F. **Resident Manager.** A resident manager may be permitted on-site with the responsibility of maintaining the operation of the facility in conformance with the conditions of the approval. The manager's residence shall conform with the provision of this Ordinance.
- G. **On-Site Circulation and Parking.**
  - 1. All one-way driveways shall be designed with one 10 foot wide loading/unloading lane and one 15 foot travel lane.
  - 2. All two-way driveways shall be designed with one 10 foot wide loading/unloading lane and two 12 foot travel lanes.
  - 3. The parking lanes may be eliminated if the driveway does not serve storage units. Signs and painted lines shall be used to indicate parking and traffic direction throughout the site.

**Section 10-254 Open-Air Businesses.**

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

- A. **Minimum Lot Area.** The minimum lot area for open-air businesses shall be 5,000 square feet.
- B. **Driveway Location.** The nearest edge of any driveway serving an open-air business shall be located at least 40 feet from any street or road intersection (as measured from the nearest intersection right-of-way) and at least 10 feet from any side property line.
- C. **Parking Setback.** Parking shall be setback a minimum of 10 feet from any street right-of-way line.
- D. **Lot Width.** The minimum lot width for open-air businesses shall be 50 feet.
- E. **Loading and Parking.** All loading and parking areas for open-air businesses shall be confined within the boundaries of the site, and shall not be permitted to spill over onto adjacent roads or alleys.
- F. **Outdoor Display of Vehicles.** The outdoor display of new or used automobiles, boats, mobile homes, recreational vehicles, trailers, trucks, or tractors that are for sale, rent, or lease shall comply with the requirements in Section 10-256.
- G. **Plant Material Nursery.** Nurseries that deal with plant materials shall comply with the following:
  - 1. Plant storage and display areas shall comply with the minimum setback requirements for the district in which the nursery is located.



2. The storage of soil, wood chips, fertilizer, and similar loosely packaged materials shall be contained and covered to prevent it from blowing onto adjacent properties.

## **Section 10-255 Care of Domestic Animals.**

### **Section 10-255.1 Veterinary Office or Clinic.**

The office of one or more licensed veterinarians for the purpose of caring for the medical needs of small domestic animals and house pets. A veterinary office or clinic shall comply with the following requirements:

- A. **Enclosure.** All activities shall be conducted within a completely enclosed building, except for occasional walking and outdoor exercise when accompanied and controlled by an employee. No animals shall be permitted outside of the building between the hours of 9:00 p.m. and 8:00 a.m.
- B. **Setbacks.** All buildings shall be set back at least 50 feet from abutting land that is zoned for residential use.
- C. **Treatment Facilities.** No veterinary clinic shall contain facilities for boarding of animals, except for the purpose of medical treatment or recovery from surgery or medical treatment (unless such facility is also permitted as a kennel and complies with Section 10-255.2).

### **Section 10-255.2 Kennel.**

An establishment where four (4) or more dogs, cats, or other domestic animals six (6) months or older are kept temporarily for sale, breeding, boarding, or training, subject to the following standards:

- A. **Compliance with Other Regulations.** Any such kennel shall be subject to all permit and operational requirements established by County and State regulatory agencies.
- B. **Enclosure.** All animals shall be kept in an enclosed structure, except for occasional walking and outdoor exercise when accompanied and controlled by an employee. No animals shall be permitted outside of the building between the hours of 9:00 p.m. and 8:00 a.m.
- C. **Setbacks.** Structures in which animals are kept, as well as animal runs and exercise areas, shall not be located in any required front, side or rear setback area and shall be located at least 50 feet from any dwellings or buildings used by the public on adjacent property.

## **Section 10-256 Automobile Service Stations and Public Garages.**

In order to regulate and control the problems of noise, odor, light, fumes, vibration, dust, danger of fire and explosion, and traffic congestion which result from the unrestricted and unregulated construction and operation of automobile service stations, and to regulate and control the adverse effects which these and other problems incidental to the automobile service station may exercise upon adjacent and surrounding areas, the following additional regulations and requirements are provided herein for automobile service stations located in any zone. All automobile service

stations erected after the effective date of this chapter shall comply with all requirements of this section. No automobile service station existing on the effective date of this Chapter shall be structurally altered so as to provide a lesser degree of conformity with the provisions of this Section than existed on the effective date of this Chapter.

- A. **Location.** An automobile service station shall be located on a lot having a frontage along the principal street of not less than 150 feet, and having a minimum area of not less than 15,000 square feet.
- B. **Setbacks.** An automobile service station building housing an office and/or facilities for servicing, greasing and/or washing motor vehicles shall be located not less than 40 feet from any street lot line, and not less than 25 feet from any side or rear lot line adjoining a residentially zoned district.
- C. **Driveways.** All driveways providing ingress to or egress from an automobile service station shall be not more than 30 feet wide at the property line. No more than one (1) curb opening shall be permitted for each 50 feet of frontage or major fraction thereof along any street. No driveway or curb opening shall be located nearer than 20 feet to any corner or exterior lot line, as measured along the property line. No driveway shall be located nearer than 30 feet, as measured along the property line, to any other driveway giving access to or from the same automobile service station.
- D. **Curb.** A raised curb six (6) inches in height shall be erected along all street lot lines, except for driveway openings.
- E. **Enclosure.** All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building.
- F. **Pump and Stall Limitations.** An automobile service station located on a lot having an area of 15,000 square feet shall include not more than eight (8) gasoline pumps and three (3) enclosed stalls for servicing, lubricating and greasing. One (1) additional enclosed stall for services, lubricating and greasing may be included with the provision of each additional 2,000 square feet of lot area.
- G. **Wall abutting Residential Zone.** Where an automobile service station adjoins property located in any residential zone, a masonry wall five (5) feet in height shall be erected and maintained between the station and required yard space, or if separated from the residential zone by an alley, then along the alley lot line. All masonry walls shall be protected by a fixed curb or barrier to prevent vehicles from contacting the wall.
- H. **Lighting.** All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property.
- I. **Noise and Odors.** There shall be no external evidence of service and repair operations, in the form of dust, odors, or noise, beyond the interior of the service building. Buildings containing service and repair activities shall have appropriate filtering systems to prevent emission of odors. Building walls facing any residential districts or uses shall be of masonry construction with sound proofing.

- J. **Traffic Impact Study.** A traffic impact study, in accordance with Section 10-484, may be required by the Planning Commission if the Commission determines that the traffic generated by the use could adversely affect the area.
- K. **Vehicles Confined to Site.** All vehicles being serviced, waiting for service, and waiting for pickup after service must be parked on the site.
- L. **Further Regulations.** Automobile service stations and public garages are subject to the provisions of Chapter 12, Article III of the Code of Ordinances.

#### **Section 10-257 Drive-In Establishments.**

Drive-in establishments, as defined in Section 10-120, must comply with the following requirements.

- A. **Screening.** When a drive-in establishment adjoins property located in any residential district, a masonry wall, ornamental on both sides, five (5) feet in height shall be erected and maintained along the interior line, or if separated from the residential zone by an alley, along the alley lot line. In addition, all outside trash areas shall be enclosed by said five (5) foot masonry wall. Said wall shall be protected from possible damage inflicted by vehicles using the parking area by means of pre-cast concrete wheel stops at least six (6) inches in height, or by firmly implanted bumper guards not attached to the wall, or by other suitable barriers.
- B. **Pavement.** The entire parking area shall be paved with a permanent surface of concrete or asphalt and shall be graded and drained. Any unpaved area of the site shall be landscaped with lawn or other horticultural materials, maintained in a neat and orderly fashion at all times, and separated from the paved area by a raised curb or other equivalent barrier.
- C. **Lighting.** Lighting shall be installed in a manner which will not create a driving hazard on abutting streets or which will not cause direct illumination on adjacent residential properties.
- D. **Ingress and Egress.** Adequate ingress and egress shall be provided.
- E. **Review.** Before approval is given for any drive-in establishment, a site plan shall first be submitted to the Planning Commission for review as to suitability of location of entrances and exits to the site, parking area, stocking, screening, lighting and other design features.
- F. **Location.** In the case of drive-in restaurants, carry-out restaurants and fast food restaurants, as defined in Section 10-120, as well as any standard restaurant as defined in Section-120, which has a drive-through pick-up service window, no such restaurant site shall be located closer than 750 feet from any other such restaurant, provided the City Council may, after review by the City Planning Commission, grant an exception to this restriction upon a finding that the application of the restriction as enacted would result in peculiar or exceptional practical difficulties or exceptional undue hardship upon the owner of such property, and upon a finding that the exception will not violate the intent of this Article and Section 10-640.

- G. **Traffic Impact Study.** A traffic impact study, in accordance with Section 10-484, may be required by the Planning Commission if the Commission determines that the traffic generated by the use could adversely affect the area.

**Section 10-258 Automobile or Vehicle Sales.**

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

- A. **Grading, Surfacing, and Drainage.** Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall be hard-surfaced with concrete or bituminous material, and shall be graded and drained so as to effectively dispose of or retain surface waters. Grading, surfacing, and drainage plans shall be subject to review and approval by the Director of Public Works and/or City Engineer.
- B. **Driveway Location.** The nearest edge of any driveway serving an outdoor vehicle sales area shall be located at least 60 feet from any street or road intersection (as measured from the right-of-way line).
- C. **Servicing of Vehicles.** All servicing of vehicles shall be subject to the following requirements:
1. Service activities shall be clearly incidental to the vehicle sales operation.
  2. Vehicle service activities shall occur within a completely enclosed building.
  3. Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored within a completely enclosed building.
  4. Buildings containing the service operations shall be located a minimum of 50 feet from any abutting residential property line.
  5. There shall be no external evidence of the service operations, in the form of dust, odors, or noise, beyond the interior of the service building.
  6. Buildings should be oriented so that open bays, particularly for self-serve automobile washes, do not face onto adjacent thoroughfares unless screened by an adjoining lot, building or obscuring wall per Section 10-281.
- D. **Broadcasting Devices Prohibited.** Devices for the outdoor broadcasting of voice, telephone monitoring, music or any other amplified sound shall be prohibited outside of any building.
- E. **Setbacks.** Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall comply with the requirements for parking lots, as specified in Section 10-454.
- F. **Minimum Lot Area.** The minimum lot area required for such uses shall be two (2) acres.

- G. **Traffic Impact Study.** A traffic impact study, in accordance with Section 10-484, may be required by the Planning Commission if the Commission determines that the traffic generated by the use could adversely affect the area.

**Section 10-259 Automobile Wash or Car Wash Establishment.**

The following regulations shall apply to Automobile Wash or Car Wash Establishments:

- A. **Minimum Lot Area.** The minimum lot area required for automobile wash or car wash establishments shall be 10,000 square feet.
- B. **Layout.** All washing activities shall be carried on within a fully enclosed building. Vacuum activities shall be permitted in the rear yard only, provided such activities are located at least 25 feet from adjacent residentially zoned or used property. Entrances and exits shall not face abutting residentially zoned or used property. Adequate vehicle parking and stacking spaces shall be provided as required in Article IV.
- A. **Entrances and Exits.** Sufficient space shall be provided on the lot so that vehicles do not enter or exit the wash building directly from an adjacent street or alley. All maneuvering areas, stacking lanes, and exit aprons shall be located within the car wash property. Streets and alleys shall not be used for maneuvering or parking by vehicles to be serviced by the automobile wash.
- D. **Orientation of Open Bays.** Buildings shall be oriented so that open bays, do not face onto adjacent thoroughfares unless screened by an adjoining lot, building or obscuring wall per Section 10-281.
- E. **Exit Lane Drainage.** Exit lanes shall be sloped to drain water back to drainage gates in the wash building.
- F. **Building Setback.** Buildings or other structures used for the washing automobiles shall be set back a minimum of 60 feet from any street right-of-way line.
- G. **Driveway Access.** Driveways serving automobile wash or car wash establishments shall provide direct access from a major thoroughfare or arterial road. The nearest edge of any entrance or exit drive shall be located no closer than 25 feet from any street or road intersection, as measured from the nearest intersection right-of-way line.
- H. **Obscuring Wall.** An obscuring wall five (5) feet in height shall be provided along all property lines abutting property that is zoned for residential, commercial, or office use, except that no wall shall form an obstruction of visibility from the street, as regulated by Section 10-228.B, Obstruction of Visibility from Street.
- I. **Traffic Impact Study.** A traffic impact study, in accordance with Section 10-484, may be required by the Planning Commission if the Commission determines that the traffic generated by the use could adversely affect the area.

**Section 10-261 Sexually-Oriented Business.**

- A. Sexually-Oriented Business is any business which, as a substantial portion of its business, provides sexually stimulating material and/or performances for any form of consideration,

involving the physical display of specified anatomical areas or the performance, depiction or description of specified sexual activities, as defined in subsection C. Sexually-oriented businesses include, but are not limited to the following uses (defined in subsection C): adult bookstore, adult cabaret, adult personal service establishment, adult motion picture theater, adult video store and sexual paraphernalia store.

B. **Purpose and Intent.** Regulation of sexually-oriented businesses and adult uses are established for the following purposes:

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

C. **Definitions.** The following definitions apply to sexually-oriented businesses:

1. **Adult bookstore** - an establishment that sells predominantly books and printed material and that has as a substantial portion of its stock-in-trade characterized by an emphasis on the depiction or description of specified sexual activities or specified human anatomical areas.
2. **Adult cabaret** - a nightclub, bar, restaurant, lounge, dance hall, or similar establishment where, for any form of consideration, employees and/or entertainers provide patrons, guests or members with exposure to specified anatomical areas or specified sexual activities, on a regular, irregular, or special event basis.
3. **Adult personal service establishment** - an establishment or business having as a substantial portion of its activities, one or more persons who, for any form of consideration, while nude or partially nude, provide personal services for one or more other persons in a closed room consisting of actual or simulated specified sexual activities, or erotic modeling, rubs, body painting, dancing, wrestling, or theatrical performance which are characterized by, or include emphasis on, the display of specified anatomical areas.
4. **Adult motion picture theater** - an establishment where, for any form of consideration, films, motion pictures, videos, slides, or other photographic

reproductions are shown and in which a substantial portion of the total presentation is devoted to the showing of material characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual activities.

5. **Adult video store** - an establishment that has as a substantial portion of its stock-in-trade and offers for any form of consideration, including on-premises viewing, any of the following: films, movies, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
6. **Form of consideration** - the exchange of money, the promise of money, or the exchange of goods, services or favors as payment for goods, services, or favors rendered
7. **Sexual paraphernalia store** - an establishment that sells or rents instruments, devices, paraphernalia designed for use as part of, or in connection with, specified sexual activities.
8. **Specified anatomical areas** - any one of the following: a) less than completely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or human male genitals in a discernible turgid state, even if completely and opaquely covered.
9. **Specified sexual activities** - any one or more of the following: a) the fondling or erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; b) human sex acts, normal or perverted, actual or simulated, including but not limited to intercourse, oral copulation, and sodomy; c) human masturbation, actual or simulated; d) human excretory functions as part of, or as related to, any of the activities described above; and e) physical violence, bondage, mutilation, or rape, actual or simulated, as part of or as related to, any of the activities described above.
10. **Substantial portion** - a use or activity accounting for more than 20 percent of any one or more of the following: stock-in-trade, sales revenue, display space, floor space, viewing time, movie display time, or entertainment time measured per month.

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

1. **Locational and Site Requirements:**
  - a. **District C-1:** A sexually-oriented business or adult use must have access to a major thoroughfare, herein defined as Harper Avenue, Kelly Road, Vernier Avenue, and Eight Mile Road west of Vernier Road.  
  
District RS-1: A sexually-oriented business or adult use shall be provided access to a major thoroughfare, herein defined as Harper Avenue, Kelly Road, Vernier Avenue, and Eight Mile Road west of Vernier Road, without the use of intervening residential streets.

- b. No sexually-oriented business or adult use may be established, operated, or maintained within 500 feet of a residential district, unless the residential district is separated from the sexually-oriented business or adult use by a major thoroughfare, as defined in (1), above; in which case, no sexually-oriented business or adult use shall be located directly across a major thoroughfare from a residential district.
- c. No sexually-oriented business or adult use may be established, operated, or maintained within 250 feet of any of the following uses: place of worship, nursery school, state-licensed day care facility, state licensed halfway house or group home, public library, public park or playground, or public or private school serving persons age seventeen (17) or under.
- d. No sexually-oriented business or adult use may be established, operated, or maintained within 1,000 feet of any other sexually-oriented business or adult use.
- e. Distance limitations shall be measured in a straight line from the parcel or lot lines of both the subject parcel and parcels zoned residential or occupied by uses specified above.
- f. A sexually-oriented business or adult use which is established in conformance with subsections (2) and (3), above, may continue to operate if subsequent rezoning or establishment of uses in the vicinity make the sexually-oriented business or adult use nonconforming with respect to either subsection (2) or (3).

2. Performance Standards:

- a. If a sexually-oriented business or adult use is located in a freestanding building, a solid wall six (6) feet in height must be constructed around the side and rear lot lines, beginning 10 feet from the street line.
- b. No direct vehicular access shall be taken from a street other than a major thoroughfare, as defined in 1. (a), above, unless it is determined that the access will not create problems of through traffic and on-street parking for a residential neighborhood.
- c. All activities shall be conducted within an enclosed building and not visible through windows or doors to public right-of-way, including public sidewalk.
- d. No sound shall be produced by the activities conducted within the building that are discernable at or beyond the boundaries of the sexually-oriented business or adult use.
- e. Signage shall conform to the City's Sign Regulations and in addition shall include no graphic displays and shall not include any wording that conveys in any way the meanings of any part of the definitions of "Specified anatomical areas" or "Specified sexual activities", as defined elsewhere in this Chapter.



## Section 10.262 Planned Unit Developments

### A. Intent.

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

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

1. A PUD may be applied for in any zoning district. A PUD application shall require a rezoning by way of an amendment to this ordinance upon the recommendation of the Planning Commission and approval by City Council.  
  
Adequate public health, safety, and welfare protection mechanisms shall be designed into the PUD to ensure the compatibility of varied land uses both within and outside the development for any land use or mix of land uses authorized in this ordinance, which may be included in a PUD.
2. A PUD zoning classification may only be approved in conjunction with an approved PUD site plan.
3. The PUD shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community, and shall result in a higher quality of development than could be achieved under conventional zoning.
4. The proposed type and density of use shall not: result in an unreasonable increase in the use of public services, facilities and utilities; create a demand that exceeds the capacity of utilities; and place an unreasonable burden upon the subject site, surrounding land, property owners and occupants, or the natural environment.
5. The proposed PUD shall not have an adverse impact upon the City's Master Plan. Notwithstanding this requirement, the City may approve a PUD proposal that includes uses or residential density which are not called for in the Master Plan, provided that the City Council, upon receiving a recommendation from the Planning

Commission, determines that such a deviation from the Master Plan is justified in light of the current planning and development objectives of the City.

However, upon approval of a PUD, the Planning Commission shall initiate action where necessary to amend the Master Plan so that the Future Land Use map designation is consistent with the approved PUD.

6. The proposed PUD shall not result in an unreasonable negative economic impact upon surrounding properties.
7. The proposed PUD shall preserve distinctive natural features on the site to the maximum extent feasible, such as, but not limited to: woodlands, wetlands, rolling topography, natural drainage courses, etc. PUD's shall comply with all of the City's ordinances that protect natural features
8. The proposed PUD shall either: be under single ownership or control such that there is a single person or entity having responsibility for assuring completion of the project in conformity with this chapter, or if there is more than one (1) owner or entity with an interest in the project, then there shall be a commitment in writing by each owner and/or entity to work in unison to complete the project in complete conformity with this chapter.

The applicant(s) shall provide legal documentation of single ownership, single control, or joint unified control in the form of agreements, contracts, covenants, and deed restrictions which indicate that the development can be completed as shown on the plans, and further, that all portions of the development that are not to be maintained or operated at public expense will continue to be operated and maintained by the developers or their successors. These legal documents shall bind all development successors in title to any commitments made as a part of the documents. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is given to the Building Department.

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

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

1. The predominant use on the site, based on acreage, shall be consistent with the uses specified for the parcel(s) on the City's Future Land Use Map and Zoning Map. Where the predominant uses are not consistent, prior to PUD approval an amendment to the Future Land Use Map may be required and an amendment to the Zoning Map may be required, as noted in item 5., below.
2. There shall be a reasonably harmonious relationship between the location of buildings on the site relative to buildings on lands in the surrounding area.

3. Residential, neighborhood commercial, office, and public uses may be developed together in a PUD, provided the uses are compatible and complementary, demonstrating good site design and planning principles.
4. The mix of uses and the arrangement of those uses within a PUD shall not impair the public health, safety, welfare, or quality of life of residents or the community as a whole.
5. Where the existing underlying zoning district is residential, nonresidential uses may be permitted as a part of a PUD provided that such nonresidential uses occupy a maximum of twenty percent (20%) of the buildable acreage of the site, subject to the following conditions:
  - a. The mix of uses must be consistent with the planned uses on the Future Land Use Map.
  - b. An amendment to the Zoning Map to change the underlying zoning shall be required prior to final PUD approval if more than twenty percent (20%) of the acreage in a residential PUD is proposed to be occupied by nonresidential uses.
  - c. For the purposes of this paragraph (D), nonresidential uses may include, but is not limited to: commercial, office, research, public (e.g., library, post office, municipal facilities), and recreational.

#### **E. Review Procedures.**

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

The applicant shall present at such a conference or conferences, at minimum, a conceptual plan of the proposed planned development, consisting of the sketch plan information required in Section 10-763.

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

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

public hearing shall be noticed in accordance with Section 10-780(B). After the public hearing, the Planning Commission shall make a recommendation to City Council of approval, approval with modifications, or denial of the PUD application. If the application is incomplete or requires additional information, the Planning Commission may defer action on the application until the proper information has been submitted.

- b. City Council PUD Review and Final Action. Following receipt of the Planning Commission's review recommendation, the application shall be placed on the City Council's next available meeting agenda. The City Council shall review the PUD plan, together with the findings of the Planning Commission and the Planning Commission minutes, and the reports from the City Planner, City Engineer, City Attorney, and other review agencies. The site plan must meet the approval criteria of Section 10-762(C) and 10-764, and the uses in the PUD must meet the approval criteria of Section 10-782. Following completion of its review, the City Council shall approve, approve with conditions, or deny the PUD application. If the City Council determines that there is additional information needed to make a decision, then the Council may defer the application to a subsequent meeting and/or remand the case to the Planning Commission for further review.
- c. PUD Agreement. If the City Council approves the PUD proposal, the City and applicant shall execute a PUD agreement, which shall be recorded in the office of the Wayne County Register of Deeds. Final approval of the PUD shall become effective upon recording of the agreement. Evidence of the recorded agreement shall be submitted to the City, whereupon the designation on the Zoning Map will be changed to "PUD."
- d. Effect of Approval.
  - 1) Approval of a PUD proposal shall constitute an amendment to the Zoning Ordinance. All improvements and use of the site shall be in conformity with the PUD amendment and any conditions imposed. Notice of the adoption of the amendment shall be published by the City in accordance with the requirements set forth in this ordinance.
  - 2) Approval of a PUD application by Council confers on the applicant and any subsequent owners of the planned unit development property the right to utilize the property included as part of the approved PUD in accordance with the approved site plan. However, for the total PUD or for each portion of the PUD, if phasing of development is planned, a site plan review is required for each phase in accordance with Section 10.262, prior to the issuance of building permits, and for any portion of the PUD having an approved site plan, in accordance with said Section 10.262, the approved site plan shall take precedence over any previously-approved plan.
  - 3) The Building Superintendent shall inspect the development at each stage to ensure reasonable compliance with the conditions of the approved planned unit development or approved site plans, as applicable.

F. **Application Data Requirements:** Applications for PUD approval shall include all applicable data required for site plan review as specified in Section 10-762. In addition, the application shall contain the following:

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

Development; and the duties of individual shareholders to manage and maintain their own units.

- G. **Review and Approval Standards:** The PUD proposal must meet all of the approval criteria of Section 10-762(C) and 10-764.
- H. **Modifications.**
  - 1. Minor Modifications. Minor modifications, as stated in Section 10-761.4, may be permitted by the Planning Commission, following normal site plan review procedures outlined in Section 10-762, subject to the finding that:
    - a. Such changes will not adversely affect the initial basis for granting approval.
    - b. Such minor modifications will not adversely affect the overall PUD in light of the intent and purpose of such development as set forth in Section 10-262(A).
  - 2. Other Modifications. Modifications that are not classified as minor modifications per Section 10-262(H)(1) shall be reviewed in accordance with the procedures set forth for approval of a new proposal.
- I. **Performance Guarantee.** The Planning Commission or City Council may require a performance guarantee from the applicant in accordance with Section 10-740.
- J. **Zoning Board of Appeals Authority.** The Zoning Board of Appeals shall not have the authority to consider an appeal of a decision by the City Council or Planning Commission concerning a PUD proposal.
- K. **Expiration of Approval.** If construction has not commenced within 24 months of final approval, the approval becomes null and void and a new application for the PUD shall be required. The City Council may grant a 12-month extension, upon written request from the applicant, if it finds that the approved site plan adequately represents current conditions on and surrounding the site. The written request for extension must be received prior to the site plan expiration date. In the event that an approved PUD becomes null and void, the City shall initiate proceedings to amend the zoning classification of the site.

## **Section 10.263 Wireless Communication Facilities**

- A. **General Requirements**
  - 1. Option A. Wireless communications facilities is a permitted use of property and is not subject to special land use approval or any other approval if all of the following requirements are met:
    - a. The wireless communications facilities will be colocated on an existing wireless communications support structure or in an existing equipment compound.
    - b. The existing wireless communications support structure or existing equipment compound is in compliance with the Zoning Ordinance or was approved by the City.

- c. The proposed colocation will not do any of the following:
    - 1) Increase the overall height of the wireless communications support structure by more than twenty (20) feet or ten percent (10%) of its original height, whichever is greater.
    - 2) Increase the width of wireless communications support structure by more than the minimum necessary to permit colocation.
    - 3) Increase the area of the existing equipment compound to greater than 2,500 sq. ft.
  - d. The proposed colocation complies with the terms and conditions of any previous final approval by the City.
2. Option B: Wireless communications equipment is subject to special land use approval, in accordance with Section 10-770 of the Zoning Ordinance, if the equipment does not meet requirements “(c)” and “(d)” under Option A, but the equipment meets all of the following requirements:
- a. The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.
  - b. The existing wireless communications support structure or existing equipment compound is in compliance with the City Zoning Ordinance or was approved by the City.
3. Option C: Wireless communication equipment is subject to special land use approval, in accordance with Section 10-770 of the Zoning Ordinance if the proposal does not involve colocation (e.g., a new facility).

**B. Approval Procedures.** The following procedures have been established to achieve approval of a proposed wireless communications facility:

- 1. Option A: Option A Wireless communication equipment proposals require no zoning approval. However, plans for Option A improvements shall be submitted to the City.
- 2. Option B: Option B wireless communication equipment proposals require special land use approval. Accordingly, such proposals are subject to the procedures in Section 10-770 and the following special procedures.

Steps Action

- 1. Applicant submits plan and \$1,000 fee.
- 2. Within 14 days City administration determines if application is complete.
- 3. If application is incomplete, administration notifies applicant.
- 4. If application is complete, administration initiates Special Land Use review by scheduling special land use public hearing. Special land use review must be complete (60) days after the application is considered complete.
- 5. City Planner reviews plan, transmits letter to Planning Commission.

6. Planning Commission reviews plan, makes recommendation to City Council.
  7. City Council approves or denies application.
3. Option C. Option C wireless communication equipment proposals require special land use approval. Accordingly, such proposals are subject to the procedures outlined for Option B, except that in Step 4 the special land use review must be complete not more than ninety (90) days after the application is considered complete.

C. **Standards and Conditions.** All applications for wireless communication facilities shall be reviewed in accordance with the standards in this Ordinance that apply generally to site plan review and special land use review, and subject to the following standards and conditions. If approved, such facilities shall be constructed and maintained in accordance with such standards and conditions and any additional conditions imposed by the Planning Commission and City Council.

1. Public Health and Safety. Facilities and/or support structures shall not be detrimental to the public health, safety and welfare.
2. Harmony with Surroundings. Facilities shall be located and designed to be harmonious with the surrounding areas.
3. Compliance with Federal, State and Local Standards. Wireless communication facilities shall comply with applicable federal and state standards, including requirements promulgated by the Federal Aviation Administration (FAA), Federal Communication Commission (FCC), and Michigan Aeronautics Commission. Wireless communication support structures shall comply with all applicable building codes.
4. Maximum Height. Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights. The maximum height of a new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to collocate on the structure), but shall not exceed one hundred twenty (120) feet. Higher towers may be permitted, however, if necessary to achieve collocation. The buildings, cabinets, and other accessory structures shall not exceed the maximum height for accessory structures in the zoning district in which the facility is located.
5. Minimum Setbacks. The setback of a new or modified support structure from any residential-zoned district or existing or proposed right-of-way or other publicly traveled road shall be no less than the total height of the structure and attachments thereto.

Where the proposed new or modified support structure abuts a parcel of land zoned for a use other than residential, the support structure shall comply with the required setbacks for principal buildings specified in the Schedule of Regulations for the zoning district in which the facility is located.

Buildings and facilities accessory to the wireless communication facility (other than the support structure) shall comply with the required setbacks for principal buildings



specified in the Schedule of Regulations for the zoning district in which the facility is located.

6. Access. Unobstructed permanent access to the support structure shall be provided for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. The permitted type of surfacing, dimensions and location of such access route shall be subject to approval by the Planning Commission, based on evaluation of the location of adjacent roads, layout of buildings and equipment on the site, utilities needed to service the facility, proximity to residential districts, disturbance to the natural landscape, and the type of vehicles and equipment that will visit the site.
7. Division of Property. The division of property for the purpose of locating a wireless communication facility shall be permitted only if all zoning requirements, including lot size and lot width requirements, are met.
8. Equipment Enclosure. If an equipment enclosure is proposed as a building or ground-mounted structure, it shall comply the required setbacks and other requirements specified for principal buildings in the Schedule of Regulations for the zoning district in which the facility is located. If an equipment enclosure is proposed as a roof appliance on a building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building.
9. Design Objectives. The support structure and all accessory buildings shall be designed to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. Accordingly, support structures shall be painted with a rust preventative paint of an appropriate color to harmonize with the surroundings and shall not have lights unless required otherwise by the Federal Aviation Administration (FAA). Equipment buildings shall have a brick exterior. No signs or logos visible from off-site shall be permitted on a support structure.
10. Fencing. Wireless communication facilities shall be enclosed by an open weave, green vinyl-coated, chain link fence having a maximum height of six (6) feet. Barbed wire is not permitted.
11. Structural Integrity. Wireless communication facilities and support structures shall be constructed and maintained in structurally sound condition, using the best available technology, to minimize any threat to public safety.
12. Maintenance. A plan for the long term, continuous maintenance of the facility shall be submitted. The plan shall identify who will be responsible for maintenance, and shall include a method of notifying the City if maintenance responsibilities change.
13. Screening. The fenced site shall be completely screened on all sides by evergreen screening consisting of upright arborvitae ("Nigra," "Techny," or "Emerald") planted no farther than 3.5 feet apart. The plants shall be at least six (6) feet in height at the time of planting. Other evergreen trees or shrubs may be permitted, provided that the Planning Commission finds that the substitute plant material will provide a complete screen around the facility.

D. **Removal.** A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:

1. When the facility has not been used for one hundred eighty (180) days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.
2. Six (6) months after new technology is available at reasonable cost, as determined by the City Council, which permits the operation of the communication system without the requirement of the support structure.
  - a. The situations in which removal of a facility is required, as set forth in paragraph (1) above, may be applied and limited to portions of a facility.
  - b. Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the facility shall immediately apply for any required demolition or removal permits, and immediately proceed with and complete the demolition, removal, and site restoration.
  - c. If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the City may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected and/or enforced from or under the security posted at the time application was made for establishing the facility.

E. **Application Requirements**

1. Site Plan and Special Land Use Review. A site plan prepared in accordance with Section 10-761 shall be submitted, showing the location, size, screening and design of all buildings, outdoor equipment, and structures. In addition, the special land use approval procedures and standards in Section 10-770 shall be followed.
2. Landscape Plan. A detailed landscaping plan shall be submitted illustrating the number, species, location, and size at the time of planting of all proposed trees and shrubs. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure.
3. Structural Specifications. Structural specifications for the support structure and foundation shall be submitted for review. The structural specifications shall state the number of various types of antennae capable of being supported on the structure. A soils report prepared by a geotechnical engineer licensed in the State of Michigan shall also be submitted confirming that the soils on the site will support the structure. Structural plans shall be subject to review and approval by the City Engineer.
4. Security. The application shall include a description of security to be posted immediately upon issuance of a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as previously

noted. The amount of security shall be determined by the City Engineer. In this regard, the security shall, at the election of the applicant, be in the form of: (1) cash; (2) surety bond; (3) letter of credit; or, (4) an agreement in a form approved by the City Attorney and recordable at the office of the Register of Deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required herein, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorney's fees incurred by the City in securing removal.

5. Service Area Documentation. The application shall include a map showing existing and known proposed wireless communication facilities in the City and in areas surrounding communities, which are relevant in terms of potential colocation or in demonstrating the need for the proposed facility. If such information is on file with the community, the applicant shall be required only to update as needed. Any such information which is a trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy {MCL 15.243(l)(g)}. This ordinance shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the City.
6. Contact Person. The application shall include the name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.

## **Required Improvements**

### **Section 10-281 Screening Requirements.**

In order to provide adequate protective screening for residential areas adjacent to or near non-residential areas, the following regulations shall apply:

- A. Where a C-1, C-2, O-1 or RO-1 District abuts directly upon an R-1 or R-2 District, a landscaped greenbelt shall be provided and maintained along its entire length of the users of C-1, C-2, O-1 or RO-1 zoned property. In addition, those districts shall be screened from such contiguous, residentially zoned district by either a building housing a permitted use or else by a solid, ornamental masonry wall five (5) feet in height above grade between the required greenbelt area and the commercial use in the C-1, C-2, O-1 or RO-1 District. Such greenbelt shall be a strip of land not less than 15 feet in width which is planted and maintained with evergreens, such as spruce, pines or firs at least five (5) feet in height so as to create a permanent buffer within one (1) year following approval of the development by the City.

If, in the opinion of the City Planning Commission, the greenbelt would serve no good purpose, the Zoning Board of Appeals may waive such requirement and provide only the wall between the residential and C-1, C-2, O-1 or RO-1 District.

The remainder of the landscaped area which is not planted with evergreens as provided in the preceding sub-section shall be in well-kept lawns. All landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance. All planting plans shall be

first submitted to the City Planning Commission for approval as to suitability of planting materials and arrangements thereof in accordance with the provisions of the preceding sub-section.

When vehicle(s) or open air display generally exceed a five (5) foot height, the wall shall be increased to a height necessary to screen the vehicle(s) or open air display, but not exceeding 10 feet. All such walls shall be of uniform height around the premises and approval of the design of such wall by the City Planning Commission is required.

- B. Where required walls are provided on the business side of public alleys, wall requirements may be waived to provide necessary entrance to or exit from required off-street parking and loading areas; provided, that approval is secured from the Zoning Board of Appeals as to the suitability of the width and location of such openings in the wall.

## **Section 10-282 Landscaping Requirements - Statement of Purpose.**

- A. **Intent.** Landscaping enhances the visual image of the City, 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, nonresidential uses. Accordingly, these provisions are intended to set minimum standards for the design and use of landscaping, greenbelts, and screening, and for the protection and enhancement of the City's environment. More specifically, the intent of these provisions is to:
1. Improve the appearance of off-street parking areas, vehicular use areas, and property abutting public rights-of-way, and
  2. Protect and preserve the appearance, character, and value of the neighborhoods which abut non-residential areas, parking areas, and other intensive use areas, thereby protecting the public health, safety and welfare, and
  3. Protect the character, appearance and value of land and neighborhoods through the judicious and thoughtful use of landscaping, screening and buffering techniques that present a finished and aesthetically pleasing appearance, preserve environmental quality, and enhance the appearance of the City, thereby reducing conditions that lead to blight, and
  4. Establish landscaping that guide and orient traffic flow within a site, and separate and protect pedestrian areas from vehicular encroachment, and
  5. Encourage flexibility, creativity and innovation in landscape site design, including the incorporation of existing vegetation, topography and other site features into the design and placement of landscaping, and
  6. Buffer the visual impact of parking lots, storage areas and similar activities from street rights-of-way and adjacent properties, provide adequate protective screening for residential uses adjacent to or near business zoning districts or uses, and establish minimum standards for the design, installation and maintenance of landscaping, screening and buffer areas between uses, and
  7. Establish realistic and achievable objectives for the screening or buffering of uses of a significantly different scale or character, and the enhancement of individual sites, street rights-of-way and other areas of the City through appropriate landscaping.
- B. **Scope of Application.** No site plan shall be approved unless it shows landscaping consistent with the requirements of this Section. 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 guarantee has been posted in accordance with the provisions set forth in Section 10-740.
- C. **Minimum Requirements.** The requirements in this Section are minimum requirements, and under no circumstances shall they preclude the developer and the City from agreeing to more extensive landscaping.

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

### **Section 10-282.1 General Landscaping Requirements.**

- A. **General Site Requirements.** All developed portions of the site shall conform to the following general landscaping standards, except for specific street and parking lot landscaping requirements or where specific landscape elements, such as a greenbelt, berms, or screening are required:

All developed portions of the site shall conform to the following general landscaping standards, except for specific street and parking lot landscaping requirements:

1. All unpaved portions of the site shall be planted with grass, ground cover, shrubbery or other suitable plant material.
2. One (1) deciduous tree shall be planted per 2,000 square feet or fraction thereof of unpaved open area. Eight (8) shrubs may be substituted for each required tree.

- B. **Landscaping Adjacent to Streets and Street Rights-of-Way.** Where required, landscaping adjacent to street and street rights-of-way shall comply with the following planting requirements:

1. Minimum Requirements

Where required, landscaping adjacent to a street or street right-of-way shall consist of a landscaped area with a minimum depth of 10 feet, which shall be located on private property contiguous to the road right-of-way, excluding openings for driveways and sidewalks. Through lots and corner lots shall provide such landscaping along all adjacent road rights-of-way.

The Planning Commission may permit all or a portion of the landscaped area to be located within the street right-of-way or elsewhere within the front setback area, provided that the Planning Commission finds that the following conditions exist:

- a. Such relocation of the landscaped area is consistent with the intent of this section.
- b. Relocation of the landscaped area is justified because of the physical characteristics of the site, the location of existing easements, sidewalks, or landscaping, the configuration of existing parking, the need to maintain emergency vehicle access, or because of other public health or safety concerns.
- c. Such relocation of the landscaped area will not result in less landscaped area than would be required if the landscaped area had been located on private property contiguous to the street right-of-way.
- d. Such relocation of the landscaped area will not jeopardize traffic safety or the general planning of the City.

2. Required Plantings

<u>Type</u>	<u>Requirements</u>
Deciduous tree	1 per 40 lineal ft. of street frontage
Shrubs	6 per 40 lineal ft. of street frontage

For the purposes of computing length of street frontage, openings for driveways and sidewalks shall not be counted. Trees and shrubs may be planted at uniform distances, at random, or in groupings.

3. Location

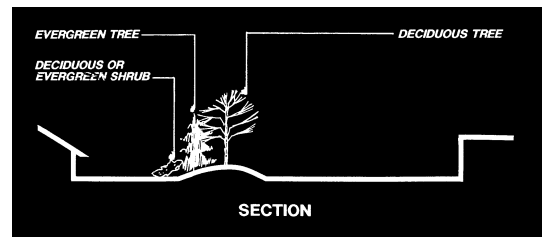
a. Where planted, trees shall comply with the following minimum setbacks, as measured from the center of the tree:

- Setback from edge of street or road: 10 feet
- Setback from fire hydrant: 5 feet
- Setback from vehicular access way or sidewalk: 5 feet

b. When planted, shrubs shall comply with the following minimum setbacks, as measured from the edge of the shrub:

- Setback from edge of road: 5 feet
- Setback from fire hydrant: 5 feet

C. **Berms.** (See diagram: "Typical Berm Design".) Where required, berms shall conform to the following standards:



1. Dimensions

Unless otherwise indicated or appropriate, required berms shall be measured from the grade of the parking lot or first ground adjacent to the berm, and shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal (33 percent slope), with at least a two (2) foot flat area on top. Berms may undulate in height, subject to review and approval of berm design as shown on the site plan. Unless otherwise indicated, the maximum height of required berms shall be three (3) feet.

2. Protection from Erosion

Any required berm shall be planted with sod, ground cover, or other suitable live plant material to protect it from erosion so that it retains its height and shape. The use of railroad ties, concrete blocks, and other types of construction materials to retain the shape and height of a berm shall be prohibited unless specifically reviewed and approved by the Planning Commission.

The use of railroad ties, concrete blocks, and other types of construction materials to retain the shape and height of a berm shall be prohibited unless specifically reviewed and approved by the Planning Commission.

3. Required Plantings

a. Berms located in the front yard of non-residential parcels

Berms located in the front yard of non-residential parcels shall be landscaped in accordance with the requirements for Landscaping Adjacent to Streets and Street Rights-of-Way Section 10-282.

b. Berms used for screening other than in the front yard

Berms used for screening other than in the front yard shall be landscaped in accordance with the requirements for Screening, Section 10-28101.E.

4. Measurement of Berm Length

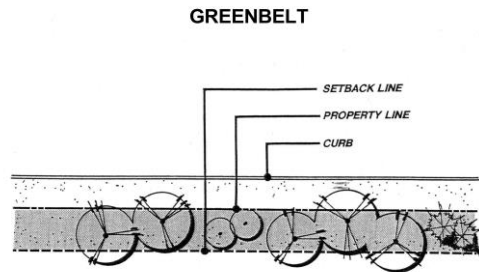
For the purposes of calculating required plant material, berm length shall be measured along the exterior edge of the berm.

D. **Greenbelts.** (See diagram: "Greenbelt".)

Where required, greenbelts shall conform to the following standards:

1. Measurement of Greenbelt Length

For the purposes of calculating required plant material, greenbelt length shall be measured along the exterior edge of the greenbelt.



2. General Planting Requirements

a. Grass or Ground Cover Requirements

Grass, ground cover, or other suitable live plant materials shall be planted over the entire greenbelt area, except where paved walkways are used.

b. Street Trees: Wherever a greenbelt exists along a roadway, street trees shall be planted 30 feet on center. Existing street trees in good health may be counted toward fulfilling this requirement.

Proposed street trees should be the same species as existing trees on that block. The following trees are permitted as street trees:

- |                                   |                       |
|-----------------------------------|-----------------------|
| Acer x Freemanii                  | Freeman Maple         |
| Acer rubrum                       | Red Maple             |
| Ulmus glabra x Ulmus carpinifolia | Pioneer Elm*          |
| Ulmus x 'Homestead'               | Homestead Elm*        |
| Ulmus parvifolia 'Dynasty'        | Dynasty Elm*          |
| Ulmus x hollandica and cultivars. | Holland Elm*          |
| Ulmus americana 'Delaware'        | Delaware Elm*         |
| Ulmus 'Frontier'                  | Frontier Elm*         |
| Zelkova serrata 'Village Green'   | Village Green Zelkova |
| Zelkova serrata 'Green Vase'      | Green Vase Zelkova**  |



Gymnocladus dioica  
Gleditsia Tricanthos 'Inermis'  
Tilia Cordata

Kentucky Coffee Tree  
Thornless Honey Locust  
Littleleaf Linden

- \* new disease-resistant varieties
- \*\* suitable for near utilities (lower height or easier trimming for sites under utility lines)

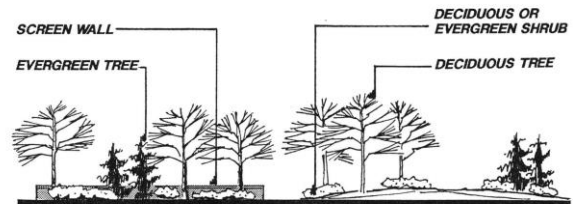
The minimum size of all trees at time of planting shall be two and one-half (2 ½) inches in caliper measured 12 inches above grade; the minimum size of Bradford pear trees at time of planting shall be two (2) inches in caliper measured 12 inches above grade.

- c. Distance from Sidewalk  
Plant materials shall not be placed closer than four (4) feet from the right-of-way line where the greenbelt abuts a public sidewalk.
- d. Setback from Property Line  
Plant materials shall be placed no closer than four (4) feet from the property line or fence line.

- 3. Greenbelts Used for Screening  
shall be landscaped in accordance with the requirements for Screening, Section 10-282.1.E.

**E. Screening.**

- 1. General Screening Requirements  
Unless otherwise specified, wherever an evergreen or landscaped screen is required, screening shall consist of closely-spaced evergreen plantings (i.e. no farther than 15 feet apart) which can be reasonably expected to form a



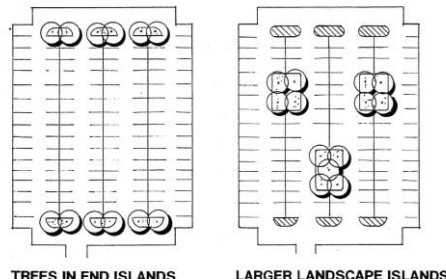
complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Deciduous plant materials may be used provided that a complete visual barrier is maintained throughout the year.

- 2. Screening of Equipment  
Mechanical equipment, such as air compressors, pool pumps, transformers, sprinkler pumps, satellite dishes and antennae, and similar equipment shall be screened on at least three (3) sides, including any side visible from the public right-of-way. Insofar as practical, said screening shall exceed the vertical height of the equipment being screened by at least six (6) inches within two (2) years of planting.
- 3. Parking Lot Screening:

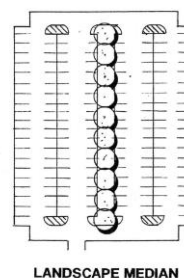
- a. Front Yard Parking. Parking areas shall be located to the side or rear of buildings when reasonably possible. Parking areas located in front or on the side of a building shall be screened from the road with a two and one-half (2 ½) to three (3) foot high brown or red brick wall, evergreen landscaping, landscaped berm, or an alternative approved by the administrative official or body reviewing the plan.

- b. Adjacent to a Residential District. Where the side or rear lot lines of a lot that is used for nonresidential purposes, including off-street parking, abut property that is zoned for residential use, a masonry screening wall shall be constructed in accordance with the standards of Section 10-281.A.

LANDSCAPE ISLANDS WITHIN PARKING AREA



F. **Parking Lot Landscaping.** (See diagram: "Landscape Islands with Parking Areas".) In addition to required screening, all off-street parking areas shall also provide landscaping as follows:



1. For those uses requiring greater than 20 parking spaces, there shall be a minimum of 20 square feet of landscaping for each space in excess of twenty spaces required, and a minimum of 100 square feet of landscaping must be provided. For every 100 square feet of required parking lot landscaping area or a fraction thereof, one (1) deciduous tree shall be provided. Eight (8) shrubs may be substituted for one (1) required tree.
2. Parking lot landscaping shall be no less than five (5) feet in any single dimension and shall be protected from parking areas with curbing, or other permanent means to prevent vehicular encroachment onto landscaped areas.
3. All landscaped areas shall be designed to ensure proper protection of the plant materials. Where adjacent to streets, driveway aisles, or parking areas, shall be protected with concrete curbing. Plant materials used shall be hardy, salt-tolerant species characterized by low maintenance requirements.
4. The size and number of planting islands and proposed plantings shall be in scale with the overall site and shall clearly define the egress/ingress points, interior circulation system and fire lanes. Landscaping shall not obscure traffic signs or lighting, access to fire hydrants or motorist sight-distance.
5. Planting islands shall have a minimum width of eight (8) feet and a minimum area of 120 square feet. A minimum of one (1) deciduous shade tree shall be provided for each 60 square feet of planting area within the island. Ornamental trees, shrubs, mulch or groundcover shall be used to cover all unplanted areas of the island.

These parking lot requirements are exclusive of landscaping provided to comply with the parking lot screening requirement.

- G. **Landscaping of Rights-of-Way.** Public rights-of-way located adjacent to required landscaped areas and greenbelts shall be planted with grass or other suitable 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 greenbelts.

Trees and shrubs shall not be planted in the street right-of-way without first obtaining approval from the agency which has jurisdiction over the road.

Trees and shrubs shall be planted no closer to the edge of the road pavement than the distances specified in the following chart:

**Setback**

Trees	10 feet (measured from center of tree)
Shrubs	5 feet (measured from perimeter of shrub)

- H. **Maintenance of Unobstructed Visibility For Drivers.** No landscaping shall be established or maintained on any parcel or in any parking lot which will obstruct the view necessary for safe driving. Accordingly, all landscaping shall comply with the provisions concerning Unobstructed Sight Distance set forth in Section 10-215.

- I. **Potential Damage to Utilities and Public Facilities.** In no case shall landscaping material be planted in a way which will interfere with or cause damage to underground utility lines, public streets, or other public facilities. Species of trees whose roots are known to cause damage to public street rights-of-way, sewers, or other utilities shall not be planted closer than 15 feet from any such roadways, sewers, or utilities. Trees shall be setback from overhead utility lines as indicated in the following chart:

<b>Minimum Distance from Center of Trunk to Nearest Utility Line</b>	<b>Tree Height</b>
Up to 15 feet	10 ft.
15 to 25 feet	20 ft.
Over 25 feet	30 ft.

- J. **Landscaping of Divider Medians.** Where traffic on driveways, maneuvering lanes, private streets, or similar vehicle accessways are separated by a divider median, the median shall be curbed and have a minimum width of 10 feet. A minimum of one (1) deciduous or evergreen tree shall be planted for each 30 lineal feet or portion thereof of median. Trees may be planted at uniform distances, at random, or in groupings, but in no instance shall the center-to-center distance between trees exceed 60 feet.

- K. **Irrigation.** The site plan shall indicate the proposed method of watering landscaped areas. Although not required, installation of an in-ground irrigation/sprinkler system is encouraged, particularly in front yards and planting islands in parking lots.

**Section 10-282.2 Specific Landscaping Requirements for Zoning Districts.**

A. **Requirements for Commercial and Office Districts.** All lots or parcels of land located in Districts RO-1, C-1, C-2, RS-1 and O-1 shall comply with the following landscaping requirements:

1. General Site Landscaping

At least six (6) percent of the site shall be maintained as landscaped open area. All such open areas shall conform to the General Site Requirements in Section 10-282.1.A, except where specific landscape elements are required.

2. Landscaping Adjacent to Road or Road Right-of-Way

All commercial and office developments shall provide landscaping adjacent to the street or street right-of-way in accordance with Section 10-282.1.B.

3. Berm Requirements

A berm may be used to screen off-street parking from view of the street, in which case the berm shall be a maximum of three (3) feet in height, and shall be planted in accordance with Section 10-282.1.C. The berm shall be located totally on private property, adjacent to the street right-of-way. Parking lot landscaping may be reduced if a berm is constructed to screen off-street parking, in accordance with Section 10-282.1.F.

4. Screening

Landscaped screening or a wall shall be required wherever a non-residential use in a commercial or office district abuts directly upon land zoned for residential purposes. Landscaped screening shall comply with the requirements in Section 10-282.1.E. If a wall is used instead of landscaping, the requirements in Section 10-228 shall be complied with.

5. Parking Lot Landscaping

Off-street parking areas containing greater than 15 spaces shall comply with the requirements for parking lot landscaping in Section 10-282.1.F.

B. **Requirements for Multiple Family Districts.** All multiple family dwellings, hospitals, nursing or convalescent homes, and hospices located in District R-2 shall comply with the following landscaping requirements:

1. General Site Landscaping

A minimum of two (2) deciduous or evergreen trees, PLUS, four (4) shrubs shall be planted per dwelling unit. Unless otherwise specified, required landscaping elsewhere in the multiple family development shall not be counted in meeting these requirements for trees.

2. Landscaping Adjacent to Street or Street Right-of-Way

All multiple family developments shall provide landscaping adjacent to the street or street right-of-way in accordance with Section 10-282.1.B.

3. Berm Requirements

A berm may be used to screen off-street parking from view of the street, in which case the berm shall be a maximum of three (3) feet in height, and shall be planted in accordance with Section 10-282.1.C. The berm shall be located totally on private property, adjacent to the street right-of-way. Parking lot landscaping may be

reduced if a berm is constructed to screen off-street parking, in accordance with Section 10-282.1.F., subject to review by the Planning Commission.

4. Screening  
Landscaped screening or a wall shall be required on all sides of a multiple family development, except on sides facing a road. Landscaped screening shall comply with the requirements in Section 10-282.1.E. A wall may be used instead of landscaping adjacent to non-residential districts, subject to the requirements in Section 10-228.
5. Parking Lot Landscaping  
Off-street parking areas containing greater than 15 spaces shall comply with the requirements for parking lot landscaping in Section 10-282.1.F.
6. Privacy Screen  
Where multiple family dwellings are designed so that rear open areas or patio areas front onto a public street, a landscaped privacy screen shall be provided (see illustration). The screen may consist of a combination of trees, shrubs, and berming, subject to review by the Planning Commission.

C. **Requirements for Non-Residential Uses in Residential Districts.** All non-residential uses developed in residential zoning districts shall comply with the following landscaping requirements:

1. General Site Landscaping  
At least 10 percent of the site shall be maintained as landscaped open area. All such open areas shall conform to the General Site Requirements in Section 10-282.1.A, except where specific landscape elements are required.
2. Landscaping Adjacent to Road or Road Right-of-Way  
All non-residential developments located in residential districts shall provide landscaping adjacent to the road or road right-of-way in accordance with Section 10-282.1.B.
3. Berm Requirements  
A berm may be used to screen off-street parking from view of the road, in which case the berm shall be a maximum of three (3) feet in height, and shall be planted in accordance with Section 10-282.1.C. The berm shall be located totally on private property, adjacent to the road right-of-way. Parking lot landscaping may be reduced if a berm is constructed to screen off-street parking, in accordance with Section 10-281.1.F.
4. Screening  
Landscaped screening or a wall shall be required wherever a non-residential use abuts directly upon land zoned for residential purposes. Landscaped screening shall comply with the requirements in Section 10-281.1.E.
5. Parking Lot Landscaping  
Off-street parking areas containing greater than 15 spaces shall comply with the requirements for parking lot landscaping in Section 10-281.1.F.

### **Section 10-282.3 Standards for Landscape Materials.**

Unless otherwise specified, all landscape materials shall comply with the following standards:

- A. **Plant Quality.** Plant materials used in compliance with the provisions of this Ordinance shall be nursery grown, free of pests and diseases, hardy in Wayne County, in conformance with the standards of the American Association of Nurserymen, and shall have passed inspections required under state regulations.
- B. **Non-Living Landscape Material.** Plastic and other non-living materials, including broken concrete, shall not be considered acceptable to meet the landscaping requirements of this Ordinance. Water bodies, boulder groupings, landscape furniture, and man-made landscape ornaments, singly or in combination shall not account for more than 30 percent of the ground area to be landscaped.
- C. **Plant Material Specifications.** The following specifications shall apply to all plant material proposed in accordance with the landscaping requirements of this Ordinance:
  - 1. Deciduous Shade Tree. Deciduous shade trees shall be a minimum of two and one-half (2½) inches in caliper measured 12 inches above grade when planted.
  - 2. Deciduous Ornamental Trees. Deciduous ornamental trees shall be a minimum of two (2) inches in caliper measured 12 inches above grade when planted.
  - 3. Evergreen Trees. Evergreen trees shall be a minimum of five (5) feet in height when planted. Evergreen trees planted to comply with the screening requirement of Section 10-136A, subsection 7a, shall be a minimum of six (6) feet in height when planted.
  - 4. Shrubs. Shrubs shall be a minimum of two (2) feet in height or spread when planted. Evergreen shrubs planted to comply with the parking lot screening requirement shall be a minimum of three (3) feet in height when planted.
  - 5. Grass. Grass area shall be planted using species normally grown as permanent lawns in Wayne County and/or native to Wayne County. Grass, sod, and seed shall be clean and free of weeds, pests, and diseases. Grass shall be sodded in the front yard. In other areas of the site, grass may be sodded, plugged, sprigged or seeded. Straw or other mulch shall be used to protect newly seeded areas.
  - 6. Ground Cover. Ground cover used in lieu of turf grass in whole or in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one (1) complete growing season.
  - 7. Mulch. Mulch used around trees and shrubs shall be a minimum of three (3) inches deep, and installed in a manner as to present a finished appearance.

8. Prohibited Plant Material. Use of the following plant materials (or other clones or cultivars) is prohibited due to susceptibility to storm damage, disease, and other undesirable characteristics:

Box Elder	Willow
American Elm	Northern Catalpa
Silver Maple	Austrian Pine
Poplar	Scotch Pine
All Fraxinus species (Ash)	

**Section 10-282.4 Installation and Maintenance.**

The following standards shall be observed where installation and maintenance of landscape materials are required:

- A. **Installation.** Landscaping shall be installed in a sound, workmanlike manner to ensure the continued growth of healthy plant material. Trees, shrubs, hedges, and vines shall be generously mulched at the time of planting.

**SUMMARY OF PLANT MATERIAL SPECIFICATIONS <sup>1</sup>**

	<b>Minimum Caliper</b>	<b>Minimum Height</b>	<b>Minimum Spread</b>
Deciduous Shade Trees	1 ½ in. <sup>2</sup>	4 ft.	--
Ornamental Trees	1 ½ in. <sup>3</sup>	4 ft.	--
Evergreen Trees	--	5 ft.	2 ½ ft.
Shrubs	--	2 ft.	2 ft.
Hedges	--	2 ft.	--
Vines	--	30 in. after	--

**Footnotes:** <sup>1</sup> See Section 10-282.3 for detailed requirements.  
<sup>2</sup> Measured 12 inches above grade.  
<sup>3</sup> Measured 6 inches above grade.

- B. **Protection from Vehicles.** Landscaping shall be protected from vehicles through use of curbs. Landscape areas shall be elevated above the pavement to a height adequate to protect the plants from snow removal, salt, and other hazards.
- C. **Off-Season Planting Requirements.** If development is completed during the off-season when plants cannot be installed, the owner shall provide a performance guarantee to ensure installation of required landscaping in the next planting season, in accordance with Section 10-740.
- D. **Maintenance.** Landscaping required by this Ordinance shall be maintained in a healthy, neat, and orderly appearance, free from refuse, junk and debris. All unhealthy and dead plant material shall be replaced immediately upon notice from the Building Inspector, 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 landscaped areas shall be provided with a readily available and acceptable supply of water. Trees, shrubs, and other plantings and lawn areas shall be watered regularly throughout the growing 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, replaced, or removed upon notice from the Building Inspector.

**Section 10-282.5 Treatment of Existing Plant Material.**

The following regulations shall apply to existing plant material:

- A. **Consideration of Existing Elements in the Landscape Design.** In instances where healthy plant material exists on a site prior to its development, the Planning Commission may permit substitution of such plant material in place of the requirements set forth previously in this Section, provided such substitution is in keeping with the spirit and intent of landscaping requirements, as stated in Section 10-282.A and this Chapter in general.

Existing hedges, berms, walls, or other landscape elements may be used to satisfy the requirements set forth previously, provided that such existing elements are in conformance with the requirements of this section.

- B. **Preservation of Existing Plant Material.** Site plans shall show all existing trees which are located in the portions of the site that will be built upon or otherwise altered, and are five (5) inches or greater in caliper, measured 12 inches above grade.

Trees shall be labeled "To Be Removed" or "To Be Saved" on the site plan. If existing plant material is labeled "To Be Saved" on the site plan, protective measures should be implemented, such as the placement of fencing or stakes at the dripline around each tree. No vehicle or other construction equipment shall be parked or stored within the dripline of any tree or other plant material intended to be saved.

In the event that healthy plant materials which are intended to meet the requirements of the Ordinance are cut down, damaged or destroyed during construction, said plant material shall be replaced with the same species as the damaged or removed tree, shrub or ground cover, in accordance with the following schedule, unless otherwise approved by the Building Inspector based on consideration of the site and building configuration, available planting space, and similar considerations:

**CALIPER MEASURED 12 INCHES ABOVE GRADE**

<u>Damaged Tree</u>	<u>Replacement Tree</u>	<u>Replacement Ratio</u>
Less than 6 inches	2-1/2 to 3 inches	1 for 1
More than 6 inches	2 - 1/2 to 3 inches	1 replacement tree for each 6 inches in caliper or fraction thereof of damaged tree

**Section 10-282.6 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 Article and Ordinance in general. In determining whether a modification is appropriate, the Planning Commission shall consider whether the following conditions exist:

- A. The public benefit intended by the landscape regulations could be better-achieved with a plan that varies from the strict requirements of the Ordinance, and
- B.
  - 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 screen than an alternative landscape design, or
  - 2. Parking, vehicular circulation, or land use are such that required landscaping would not enhance the site or result in the desired screening effect.

### **Section 10-290 Architectural and Site Design Standards General.**

- A. **Purpose and Intent.** The purpose of the architectural and site design standards is to develop compatibility and continuity among buildings in the community and to provide minimum design standards intended to enhance the appearance of the community. Buildings, parking lots, lighting, signs, landscaping, and other site and architectural design elements have a strong influence on the character and appearance of the community. Site and building designs that meet minimum quality standards contribute to the attractiveness and economic well-being and public welfare of a community, making it a better place to live and work.
- B. **Projects Subject to Architectural and Site Design Standards.** In addition to the standards of Section 10-761 and 10-762, all site plans for the erection of any buildings and structures or site improvements, including but not limited to parking lot improvements and landscaping, shall meet the following minimum appearance standards. All new construction requiring a Building Permit and/or Zoning Compliance Permit, including additions to existing structures and any renovations visible from the exterior of the building or structure, shall be subject to architectural and site design standards, except for single family residential uses, which are subject to Residential Architectural Design Standards set forth in Section 10-136B.
- C. **Special Provisions for Existing Sites.** Special provision is made for applying these standards to developed sites which existed prior to adoption of architectural and site design standards. When an existing site is undergoing improvement, change in use, expansion or reoccupation, the objective of these standards is to bring the site into compliance with the minimum standards of this section as much as reasonably possible.

When reviewing plans for a change in use or expansion which requires site plan review, zoning compliance permit, or building permit, the administrative official or body reviewing the plan shall require compliance with all applicable landscaping requirements for the entire site. All other architectural and site design standards contained herein shall apply to the portion of the building or site proposed to be changed or expanded.

### **Section 10-291 Standards for Non-Residential Developments.**

**A. Building Design Standards.**

1. **Building Materials:** The following exterior building materials shall be permitted on commercial and office buildings: brick masonry, split face or scored cement masonry units, stone, stucco, exterior insulation finish system (imitation stucco or plaster). The following materials shall be prohibited on commercial and office buildings: vinyl siding, aluminum or metal siding, T111 and other wood siding, plain or smooth face cement masonry units (on walls facing a public right-of-way).

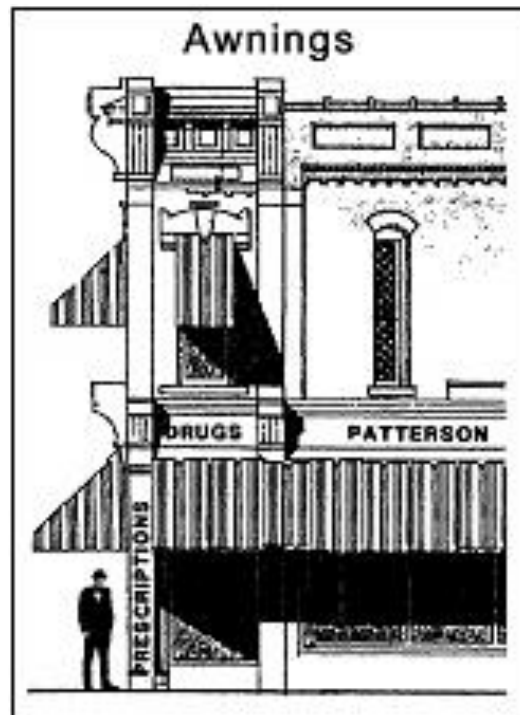
Consideration should be given to the exterior materials of adjacent buildings to achieve consistency in appearance with adjacent buildings where appropriate.

2. **Building Entrance:** All commercial buildings shall have a public entrance facing the street. Secondary public entrances at the rear or the side of the building shall be clearly defined as a public entrance with a canopy, a decorative sign, or other design feature.
3. **Windows:** Building facades facing the public right-of-way shall consist of at least 20 percent window area. The bottom sill of the windows on the front facade shall be located no higher than four (4) feet above grade. No more than 25 percent of the window area shall be covered with signage or other obscuring elements. When a building is located on a corner, this standard shall apply to both facades facing the rights-of-way, unless one of the rights-of-way is for a residential street.
4. **Colors:** The following exterior colors are permitted on commercial buildings: earth tones, warm grays, traditional colors for brick (i.e., red, brown), light subdued colors, and off-white. The following colors are expressly prohibited on commercial buildings: fluorescent colors, bright colors (e.g., orange, purple, lime green, bright pink, and other similar hues), and cool grays. Bright colors may be used sparingly as an accent color but shall not be the primary color of the building.

Consideration shall be given to the colors of buildings on adjacent sites to achieve consistency among buildings where appropriate. The color need not match the colors of adjacent buildings, but shall be complementary and harmonious.

5. **Awnings and Canopies:** Canvas and other natural fabric shed type awnings shall be permitted. Vinyl, plastic, and other synthetic awnings shall be prohibited. Back-lighted and internally illuminated awnings shall be prohibited.

Awnings shall articulate each window or wall opening. Awnings that span the width of a facade shall be prohibited.



Signage on awnings shall be restricted to the name and address of the business located on the site, and shall be subject to the standards of the sign ordinance.

6. **Signs:** Signs shall comply with the standards of the Sign Ordinance.
  7. **Roof-Mounted Equipment:** All roof-mounted equipment, including but not limited to air conditioning units, heating apparatus, dust collectors, transformers, satellite dishes and antennae, and other communication and mechanical equipment, other than chimneys and flagpoles, shall be screened by one of the following architectural elements:
    - a. A parapet wall extending above the roof as tall as the tallest part of the equipment.
    - b. A screen around the equipment that is as tall as the tallest part of the equipment. The screen shall be constructed to be compatible with the building design.
- B. **Lighting.** Exterior lighting shall be placed and shielded so as to direct the light onto the site or building and away from adjoining property. Lighting shall be shielded so that it does not cause glare or interfere with the vision of motorists. Fluorescent lights shall be prohibited. Neon lights shall be prohibited, except when they are permitted under the sign ordinance.
- C. **Service Areas.** Refuse, junk and waste removal areas, loading spaces, and other service areas shall be located in the rear yard and shall be screened from view from public rights-of-way and adjacent residential land uses. The screening shall comply with the standards of Section 10-291, subsection 7.
- D. **Screening.**
1. **Obscuring Wall Standards:** Where permitted or required by Ordinance, obscuring walls shall be subject to the following requirements:
    - a. Location. Required obscuring walls shall be placed inside and adjacent to the lot line except in the following instances:
      - 1) Where underground utilities interfere with placement of the wall at the property line, the wall shall be placed on the utility easement line located nearest the property line.
      - 2) Subject to Planning Commission approval, required walls in a nonresidential district may be located on the side of an alley right-of-way closest to the adjacent residential zone when mutually agreed upon by affected property owners and residents.
      - 3) Subject to Planning Commission approval, obscuring walls may be located up to 10 feet inside the property line if landscaping is installed between the wall and the property line.
    - b. Wall Specifications. Required walls shall be constructed of masonry material that is architecturally compatible with the materials used on the facade of the principal structure on the site, such as brick masonry,

decorative block, or poured concrete with simulated brick or block patterns. The wall shall be capped with a limestone or concrete coping block. The coping shall be curved or sloped to shed water and to discourage walking on top of the wall.

- c. Landscape Alternative. Where determined to be appropriate by the Planning Commission, the required screening wall may be substituted by a six (6) foot high evergreen plants, planted to form a solid screen. Recommended species include Serbian and Norway spruce, arborvitae, red pine, and Canadian hemlock.

2. Dumpster Screening:

- a. Location. Dumpsters shall be located to the rear of the principal building, provided that any such dumpster shall not encroach on a required parking area and is clearly accessible to servicing vehicles. Dumpsters and dumpster screening shall be located at least 15 feet from any building and five (5) feet from any property line. On corner lots, dumpster and dumpster screening shall be located at least 10 feet from the street right-of-way line.
- b. Concrete Pad. Dumpsters shall be placed on a concrete pad. The concrete pad shall extend a minimum of three (3) feet in front of the dumpster enclosure.
- c. Screening. Dumpsters and other trash receptacles shall be screened from view of adjoining property and public streets. Dumpsters shall be screened on three sides with a permanent decorative masonry wall or durable wood fencing (min. 7/8 inch thick), not less than six (6) feet or at least one (1) foot above the height of the enclosed dumpster, whichever is taller. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other three sides.
- d. Bollards. Bollards (concrete filled metal posts having a minimum diameter of four inches) or similar protective devices shall be installed at the opening and between the dumpster and the rear wall of the enclosure to prevent damage to the screening wall.
- e. If wood fencing is selected as the dumpster screening alternative, the following standards shall apply:
  - 1) Materials. Only solid No.1 pressure-treated wood or comparable wood material shall be permitted.
  - 2) Posts. Posts shall be set in concrete 42 inches below grade level. Two types of posts shall be permitted: (a) 6 inch by 6 inch pressure-treated wood, or (b) 3 inch diameter galvanized steel posts.

**Section 10-292 Residential Architectural Design Standards.**

New construction of single family detached residential dwellings shall be compatible in design and appearance to dwellings in the neighborhood it is located. The Zoning Administrator shall

determine whether this standard is met. The determination of compatibility shall be based on compliance with the following criteria:

- A. The exterior walls of the dwelling shall be constructed of materials typically found on dwellings in the neighborhood in which it is to be located.
- B. The roof pitch of the dwelling shall be comparable to the pitch of dwellings typically found in the neighborhood in which it is to be located.
- C. The dwelling shall have steps and/or porches, which are permanently attached to the ground, and which are comparable to steps and/or porches of dwellings found in the neighborhood in which it is to be located.
- D. The dwelling shall have a chimney that is constructed of a material and style similar to those of other dwellings typically found in the neighborhood in which it is to be located.
- E. The dwelling shall have a garage located no closer to the front property line than the garages of dwellings typically found in the neighborhood in which it is to be located.
- F. The dwelling shall have windows located on the front facade similar in size and quantity with dwellings typically found in the neighborhood in which it is to be located.
- G. The exterior colors of the dwelling shall be compatible with the dwellings in the neighborhood. The following colors are permitted: earth tones, traditional brick colors (e.g., red, brown), light subdued colors (e.g., blue, gray), white and off-white. The following colors are expressly prohibited: fluorescent colors and bright colors (orange, purple, lime green, bright pink, and other similar hues), black, and dark gray.

These color standards apply to all vertical surfaces of the building, including architectural features such as window shutters, gutters and downspouts, trim, and address signs, except the color black can be used for such architectural features but shall not be the primary color of the building.

- H. A dwelling may be determined to be compatible in design and appearance to dwellings in the neighborhood in which it is to be located, even it does not comply with all of the above criteria, provided it is determined that other design features exist which make it compatible with dwellings in the neighborhood.

## **ARTICLE III - NONCONFORMITIES**

### **Section 10-300 General.**

Nonconformities are uses, structures or lots that were permitted by the regulations in effect of the time they were created, but which do not conform to one or more provisions of this Chapter.

### **Section 10-301 Change in Tenancy or Ownership.**

There may be a change in tenancy, ownership, or management of an existing nonconforming use, provided there is no change in the nature or character of such nonconforming use.

### **Section 10-302 City Acquisition of Nonconformities.**

The City Planning Commission may from time to time recommend to the City Council the acquisition by purchase, condemnation, or otherwise private property or an interest in private property as does not conform in use or structure to the regulations and restrictions of the various districts defined in this Chapter and the removal of such use or structure.

The City Planning Commission shall submit its reasons and estimates of cost and expenses of such acquisition and removal of the non-conformity and probable resale price of the property to be acquired after removal of the non-conformity as obtained from the appropriate City department, board or commission. The City Planning Commission shall recommend that portion of the difference between the estimated cost of acquisition and removal of the nonconformity and the probable resale price which in their opinion should be assessed against a benefited district.

Whenever the City Council has under advisement the acquisition by purchase, condemnation, or otherwise as provided by law of any non-conforming building, structure or use, a preliminary public hearing thereon shall be held before the City Council. Not less than 15 days before the hearing, a notice of time, place and purpose of such public hearing shall be published in a paper circulating in the City and the City Clerk shall send by mail addressed to the respective owners of any such properties and properties within 300 feet at the addresses given in the last assessment roll, a written notice of time, place and purpose of such hearing. If the cost and expense or any portion thereof is to be assessed to a special district, the City Assessor shall be directed to furnish the City Council with a tentative special assessment district and the tentative plan of assessment, the names of the respective owners of the property in such district and addresses of such owners in the last assessment roll. The City Clerk shall also send the notice to the respective owners in the tentative assessment district.

Whenever the City Council, after a public hearing as required shall declare by resolution that proceedings be instituted for the acquisition of any property on which is located a nonconforming building, structure or use in accordance with the laws of the State, the Charter, this Chapter and other applicable ordinances of the City, the City Clerk shall send by registered mail a certified copy of such resolution to the respective owners of the properties and to the owners of the properties in any special assessment district, at the address given in the last assessment roll.

Upon the passing of title to the private property so acquired as provided in the preceding section to the City, the City Council shall cause the discontinuance or removal of the nonconforming use or the removal, demolition or remodeling of the nonconforming structure. The City Council shall thereafter order such property sold or otherwise disposed of, but only for a conforming use.

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

## **Nonconforming Uses**

### **Section 10-310 Nonconforming Uses, General.**

Any lawful non-conforming use existing at the time of passage of this Ordinance may be continued, provided, however, that except in the case of dwellings or farm buildings, the building or the lot or land involved shall neither be structurally altered, repaired nor enlarged unless such revised structure shall conform to the provisions of this Chapter for the district in which it is located. Provided further, that this Section shall not prohibit structural alterations required by law.

### **Section 10-311 Nonconforming Use of Land.**

Where at the time of passage of this Chapter, lawful use of land exists which would not be permitted by the regulations imposed by this Chapter, and where such use involves no individual structure with an assessed value exceeding \$500.00, the use may be continued so long as it remains otherwise lawful provided:

- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment to this Ordinance.
- B. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment to this Ordinance.
- C. If any such nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent use of such land or parcel shall conform to the regulations specified by this Chapter for the district in which such use is located.
- D. No additional structure not conforming to the requirements of this Chapter shall be erected in connection with such nonconforming use of land.

### **Section 10-312 Nonconforming Use of Structure.**

If lawful use involving individual structures with an assessed value of \$500.00 or more or of structure and premises in combination, exists at the effective date of adoption of this Chapter that would not be allowed in the district under the terms of this Chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this Chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Chapter, but no such use shall be extended to occupy any land outside the building.
- C. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. Whenever a nonconforming use has been changed to a conforming use, or to a use permitted in a district of greater restrictions, it shall no thereafter be changed to a nonconforming use.
- D. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the entire structure shall eliminate the nonconforming status of land.
- E. If any such nonconforming use of a structure ceases for any reason for a period of more than 12 months, any subsequent use of such structure shall conform to the regulations specified by this Chapter for the district in which such structure is located.
- F. A zoning compliance permit and, as may be required in the particular zoning district involved, site plan review shall be required before any existing nonconforming use is changed to a use permitted in the district in which it is located.

**Section 10-313 Forfeiture of Right to Continue Nonconforming Use.**

When nonconforming use of property is discontinued through vacancy, lack of operation, or other similar condition, for a period of 12 months or more, thereafter no right shall exist to maintain on said property a nonconforming use unless the Zoning Board of Appeals grants such privilege within six (6) months after such discontinuance. No nonconforming use, if changed to a use permitted in the district in which it is located, shall be resumed or changed back to a nonconforming use.

**Nonconforming Structures**

**Section 10-320 Nonconforming Structures, General.**

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

- A. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.
- B. Should such structure be moved for any reason whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- C. If any such non-conforming structure ceases being used for any reason for a period of more than 12 months, any subsequent use of such structure shall conform to the regulations specified by this Ordinance for the district in which such structure is located.



**Section 10-321 Nonconforming Structures - Repair and Maintenance.**

On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding 20 percent of the current assessed value of the nonconforming structure or nonconforming portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.

**Section 10-322 Nonconforming Structures - Reconstruction.**

Nothing in this Chapter shall prevent the reconstruction, repair or restoration and the continued use of any nonconforming building or structure damaged by fire, collapse, explosion, Acts of God or acts or public enemy, subsequent to the effective date of this Chapter, wherein the expense of such reconstruction does not exceed 30 percent of the State Equalized Valuation of the entire building or structure at the time such damage occurred; provided that such violation shall be subject to the approval of the Building Inspector whose decision shall be subject to the Zoning Board of Appeals, and provided that such restoration and resumption shall take place within six (6) months of the time of such damage and that it be completed within one (1) year from time of such damage, and provided further, that said use be identical with the nonconforming use permitted and in effect directly preceding said damage. Where pending insurance claims require an extension of time, the Building Inspector may grant a time extension provided that the property owner submit a certification from the insurance company attesting to the delay. Until such time as the debris from the fire damage is fully removed, the premises shall be adequately fenced or screened from access by children who may be attracted to the premises.

**Section 10-323 Nonconforming Structures - Discontinuation.**

If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to a lack of repairs and maintenance, and is declared by the Building Inspector to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, or rebuilt except in conformity with the regulations of this Chapter or other applicable laws.

**Nonconforming Lots**

**Section 10-330 Nonconforming Lots, General.**

A lot which was legal and conforming at the time of its creation but which was made nonconforming by the passage of this Chapter or any amendment thereto, may be used and developed in accordance with the provisions of this Chapter, except as otherwise restricted by Section 10-331 and 10-332 and any other pertinent Section.

**Section 10-331 Contiguous Nonconforming Lots of Record.**

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are on record at the time of passage or amendment of this Chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this Chapter, the lands involved shall be considered to be in undivided parcel for the purposes of this Chapter, and no portion of said parcel shall be used or occupied which does not meet lot width and area requirements established by this Chapter, nor shall any division of the parcel be made which leaves remaining any lot width or area below the requirements stated in this Chapter.

### **Section 10-332 Single Family Lots of Record.**

In any district which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Chapter, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Chapter, provided such lot is located in a block on which 51 percent or more of the lots on both sides of the street are occupied by single family dwellings. Where 51 percent or more of the existing homes are built upon a larger lot or combination of lots, a building permit will not be granted for a lot of less area or width than the size of the lots of the majority of the dwellings existing at the time of passage of this Chapter. In those areas where less than 51 percent of the lots are built upon in a one (1) block area, the provisions regarding the use of combined lots shall apply. Permission to use a single nonconforming lot as herein provided shall apply even though such lots fail to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which lot is located. Provided, however, lots of 45 feet or less width of a plat officially approved and recorded prior to the adoption of this Chapter shall have two side yards each having a width of not less than four (4) feet and an aggregate width of not less than 12 feet.



## **ARTICLE IV - PARKING, LOADING AND CIRCULATION REQUIREMENTS**

### **Off-Street Parking**

#### **Section 10-410 Off-Street Parking Requirements.**

In all zoning districts, off-street parking requirements for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings hereafter erected, altered or extended hereafter, shall be provided as prescribed in this Article. Such space shall be maintained and shall not be encroached upon so long as the main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Article. The determination of the required spaces and the regulation thereof shall be governed by the following regulations:

- A. For the purpose of this section, 300 square feet of lot area shall be deemed a parking space for one (1) vehicle, including access aisle, except that 180 square feet of lot area that has a direct means of ingress and egress from an alley or street may also be deemed a parking space.
- B. In computing units or measurements to determine the number of required spaces, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one (1) space.
- C. Loading spaces shall not be construed as supplying off-street parking space.
- D. The off-street parking facilities required for one and two family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve and shall consist of a parking strip, parking apron or garage.
- E. The off-street parking facilities required for all other uses shall be located on the lot or on property within 300 feet of the permitted use requiring such off-street parking within the City. Such distance shall be measured along lines of public access to the property between the nearest point of the parking facility and the building to be served; provided, that the off-street parking facility shall not be separated from the building to be served by a major thoroughfare as designated in the Master Plan.
- F. In the case of a use not specifically mentioned, the requirements for off-street parking facilities for a use which is so mentioned and is similar shall apply.
- G. Off-street parking existing on the effective date of this Chapter, which serves an existing building or use, shall not be reduced in size less than required under the terms of this Chapter.
- H. Nothing in this Chapter shall be construed to prevent collective provisions of off-street parking facilities for two or more buildings or uses; provided, that collectively, such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with Section 10-421, Schedule of Off-Street Parking Requirements.
- I. Parking spaces already provided to meet off-street parking requirements for theaters, stadiums, auditoriums and other places of public assembly, stores, and office buildings and non-residential establishments lying within five hundred feet of a place of worship

measured along lines of public access that are not normally used between the hours of 6:00 a.m. and 6:00 p.m. on Sundays and are made available for other parking may be used to meet not more than 50 percent of the off-street parking requirements of a place of worship. There shall be a written agreement between all parties concerned where this arrangement is permitted.

- J. All required off-street parking spaces shall be stated in an application for a building permit and shall be reserved irrevocably for such a use.

**Section 10-411 Required Plans for Off-Street Parking Lots.**

Plans for the development of any parking lot shall be submitted in triplicate to the Building Inspector. The design and approval of construction shall be in accordance with the requirements of Sections 5-1302, 5-1303, 5-1304, 5-1305, 5-1306, 5-1307 and 5-1308 of Chapter 13 of the Code of Ordinances. Such construction shall be completed and approved by all involved City departments and officials prior to actual use of the property as a parking lot.

**Section 10-420 Number of Required Off-Street Parking Spaces.**

The amount of required off-street parking space for new uses or buildings, additions thereto and additions to existing buildings as specified in this chapter shall be determined in accordance with Section 10-421, Schedule of Off-Street Parking Requirements.

**Section 10-421 Schedule of Off-Street Parking Requirements.**

The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings as specified above shall be determined in accordance with the following table, and the space so required shall be stated in the application for a building permit and shall be irrevocably reserved for such use and/or shall comply with the provisions of Sections 10-430 through 455.

<u>Use</u>	<u>Number of Minimum Parking Spaces Per Units of Measure</u>
<b>A. <u>Residential</u></b>	
1. Residential, One-Family and Two-Family	Two (2) for each dwelling unit
2. Residential, Multiple Family	Two (2) for each dwelling unit
3. Housing for the Elderly	One (1) for each two (2) units, and one (1) for each employee. Should units revert to general occupancy, then two (2) spaces per unit shall be provided.
4. High-Rise Multiple	One (1) for each efficiency or studio unit. One and one half (1-1/2) for each one (1) bedroom unit. Two (2) for each two (2) bedroom unit.
<b>B. <u>Institutional</u></b>	
1. Child Care Center	One (1) for each employee plus one (1)

for each 400 square feet of usable floor area.

2. Elementary or Junior High School One (1) for each (1) teacher and administrator, in addition to the requirements of the auditorium.
3. Homes for the Aged, Convalescent Center, or Hospice One (1) per each two (2) beds plus one (1) per each employee in the largest shift.
4. Hospital One (1) per 600 square feet of gross floor area.
5. Monastery, Convent or Similar Religious Residence Two (2) spaces, plus one (1) space for each three (3) residents. If a chapel or place of assembly exists, the requirements of a place of worship shall apply.
6. Museum, Library, Cultural One (1) for each 300 square feet of usable floor area plus one (1) per each employee in the largest shift.
7. Place of Outdoor Assembly One (1) for every three (3) seats or six (6) lineal feet of benches.
8. Place of Worship One (1) for each three (3) seats or six (6) lineal feet of pews seats in the sanctuary, auditorium or congregating hall.
9. Senior High School One (1) for each one (1) teacher, administrator, and one (1) for each 10 students, in addition to the requirements of the auditorium.
10. Private Club or Lodge Hall One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, County, or State fire, building, or health codes.
11. Tennis Club, or other similar use Six (6) for each court, plus one (1) for each employee. Should spectator area be provided, one (1) space for each three (3) seat shall be required.
12. Theater and Auditorium One (1) for each four (4) seats plus one (1) for each employee (Indoor) in the largest shift.
13. Theater (Drive-In) One (1) per each vehicle plus a ten percent (10%) reservoir of the total vehicle capacity.

C. Business and Commercial

1. Amusement Establishment One (1) per each 50 square foot of gross floor area.
2. Automobile Service Three (3) for each lubrication stall, rack,

Station	or pit; and one (1) for each gasoline pump, as further regulated by Chapter 12, Article III, Section 12-78 of the Code of Ordinances.
3. Automobile Wash, Automatic	One (1) for each one (1) employee in the largest shift plus seven (7) stacking spaces for each stall.
4. Automobile Wash, Self-Service	Three (3) stacking spaces and one (1) drying space for each stall in addition to the stall space.
5. Beauty Parlor or Barber Shop	Three (3) spaces for each of the first two (2) beauty or barber chairs, and one and one-half (1½) spaces for each additional chair.
6. Bowling Alley	Five (5) for each one (1) bowling lane.
7. Carry-Out Restaurant	One (1) for each 150 square feet of gross floor area, with a minimum of eight (8) spaces.
8. Dance Hall, Pool or Billiard Parlor, Roller or Ice Skating Rink, Exhibition Hall and Assembly Hall without Fixed Seat	One (1) for each 100 square feet of gross floor area.
9. Drive-In Establishment	One (1) for each 40 square feet of gross floor area, with a minimum of 25 parking spaces.
10. Establishment for Sale Consumption of Beverages, Food or Refreshments on the Premises, including cocktail lounge, night club, and brewpub	One (1) for each 100 square and feet of gross square floor area.
11. Fast Food Restaurant	One (1) for each 100 square feet of gross floor area, with a minimum of 25 spaces.
12. Freestanding Retail Store as otherwise specified herein	One (1) for each 200 square feet of gross floor area.
13. Furniture and Appliance, Household Equipment, Repair Shop, Showroom of a Plumber, Decorator, Electrician or Similar Trade, Shoe Repair and other similar use	One (1) for each 1,000 square feet of floor area. (For that floor area used in processing, one (1) space shall be provided for each two (2) persons employed therein).
14. Laundromat and Coin Operated Dry Cleaner	One (1) for each two (2) washing or dry cleaning machines.

- |   |   |
|---|---|
| 15. Miniature Golf Course   | Three (3) for each one (1) hole plus one (1) for each one (1) employee.   |
| 16. Mortuary Establishment  | One (1) for each 100 square feet of gross floor area.   |
| 17. Motel, Hotel, or Other Commercial Lodging Establishment                                     | One (1) for each one (1) occupancy unit plus one (1) for each one (1) employee plus extra spaces for dining rooms ballrooms or meeting rooms. |
| 18. Motor Vehicle Sale and Service Establishment<br>Trailer Sales and Rental,<br>Boat Showrooms | One (1) for each 400 square feet of gross floor area of sales room.   |
| 19. Open Air Business   | One (1) for each 600 square feet of lot area.   |
| 20. Shopping Center, Shopping Mall or Clustered Commercial                                      | Four and one-half (4.5) for each 1,000 square feet of gross leasable floor area.  |

D. Offices

- |  |   |
|--|---|
| 1. Bank  | One (1) for each 200 square feet of gross floor area.                 |
| 2. Bank, Drive-In  | Stacking space equivalent to six (6) spaces for each drive-in window. |
| 3. Business Offices or Professional Offices except as indicated in the following item (4)  | One (1) for each 400 square feet of gross area.                       |
| 4. Medical or Dental Clinic, Professional Office of Doctor, Dentist or Similar Profession. | One (1) for each 200 square feet of gross floor area.                 |

E. Other Non-residential

- |                            |   |
|----------------------------|---|
| 1. Automobile Repair       | One (1) for every 500 square feet of gross floor area. (Does not include storage of wrecked or repaired vehicles).    |
| 2. Research Establishment  | One (1) for every 600 square feet of gross floor area or one (1) per every three (3) employees, whichever is greater. |
| 3. Wholesale Establishment | One (1) for every 2,000 square feet of gross floor area.  |

**Section 10-422 Uses Not Cited.**



For those uses not specifically mentioned, the requirements for off-street parking for a similar use shall apply or national standards may be used, subject to review by the Planning Commission and/or Building Inspector. A factor no greater than 1.5 times the average rate listed in the **Institute of Transportation Engineers Parking Generation Manual** may be used.

**Section 10-423 Accessible (Barrier-Free Parking).**

Each parking lot that serves a building, except single- and two-family dwelling units, shall have a number of level parking spaces, reserved for persons with disabilities, according to the following provisions:

A. Definitions

**Accessible/Barrier-Free:** Describes a site, building, facility, or portion thereof that complies with the Uniform Federal Accessibility Standards (UFAS) and that can be approached, entered, and used by persons with disabilities.

**Accessible Route:** A continuous unobstructed path connecting all accessible elements and spaces in a building or facility. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps, and lifts.

**Access Aisle:** An accessible pedestrian space between elements, such as parking spaces, seating, and desks, that provides clearances appropriate for use of the elements.

B. Location

Parking spaces for persons with disabilities and accessible passenger loading zones that serve a particular building shall be **the spaces or zones located closest to the nearest accessible entrance on an accessible route**. In separate parking structures or lots that do not serve a particular building, parking spaces for persons with disabilities shall be located on the shortest possible circulation route to an accessible pedestrian entrance of the parking facility.

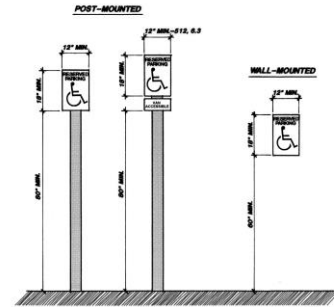
C. Barrier-Free Parking Spaces

Parking spaces for persons with disabilities shall be at least 96 inches wide and shall have an adjacent access aisle 60 inches wide minimum (see *diagram: "Barrier-Free Parking Space Layout Standards"*). Parking access aisles shall be part of an accessible route to the building or facility entrance and shall comply with the requirements in the Uniform Federal Accessibility Standards, the State Barrier-Free Manual, and the requirements of the Americans with Disabilities Act, as amended.

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



Parking spaces and access aisle shall be level with surface slopes not exceeding 1:50 in all directions. One (1) in every eight (8) accessible spaces, **but not less than one**, shall be served by an access aisle 96 inches wide minimum (see diagram: "Barrier-Free parking Space Layout - Van Accessible") and shall be designated "van accessible". All such spaces may be grouped on one level of a parking structure.



Barrier-Free Reserved Parking Signs

NOTE: ACCESSIBLE PARKING SPACE SIGNS SHALL HAVE A MINIMUM HEIGHT AND SIZE TO PERMIT THE SPACE TO BE EASILY IDENTIFIED AND ARE ELEVATED SUCH THAT THEY SHALL NOT PRESENT A HAZARD TO PERSONS WALKING NEAR THE SIGN.

D. Signage

Accessible parking spaces shall be designated as reserved for persons with disabilities by a sign showing the International symbol of accessibility (see diagram: "Barrier-Free Reserved Parking Sign"). Such signs shall not be obscured by a vehicle parked in the space.

E. Passenger Loading Zones

Passenger loading zones shall provide an access aisle at least 60 inches wide and 20 feet long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp shall be provided. (Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding 1:50 in all directions).

F. Vehicle Clearance

Provide minimum vehicle clearances of 114 inches at accessible passenger loading zones and along vehicle access routes to such areas from site entrances. If accessible van parking spaces are provided, then the minimum vertical clearance should be 114 inches.

G. Requirements

If parking spaces are provided for self parking by employees or visitors, or both, then accessible spaces complying with the following table shall be provided in each such parking area:

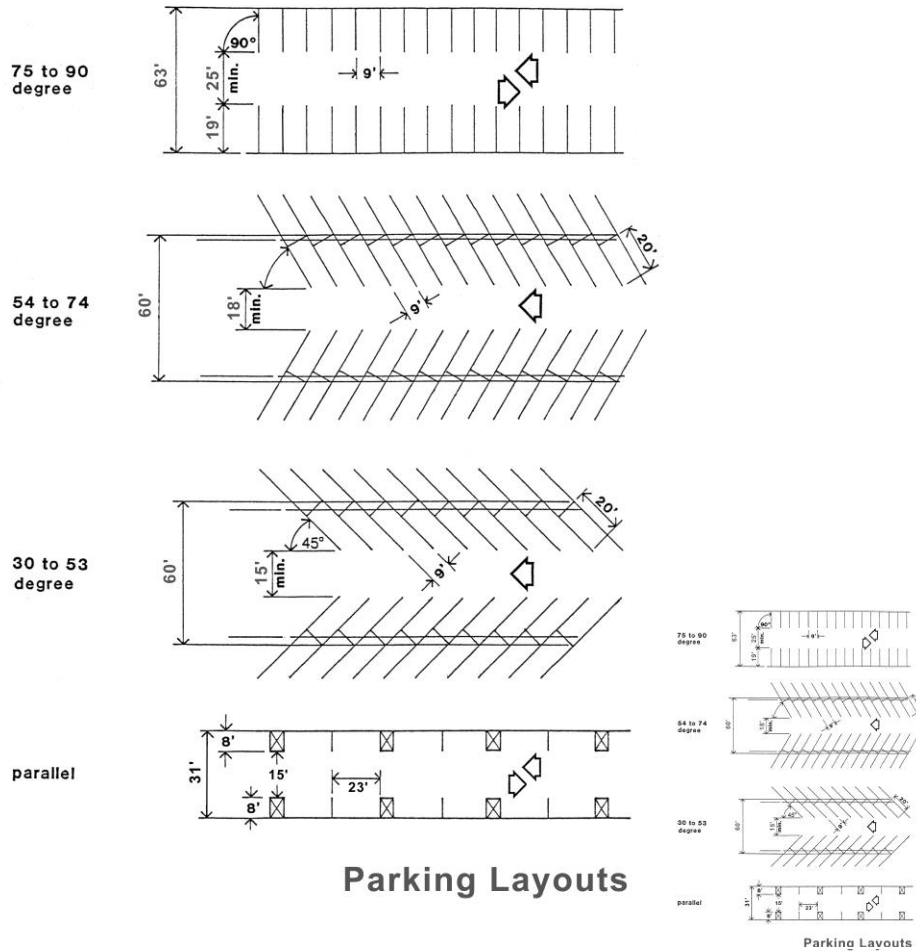
TOTAL PARKING IN LOT	REQUIRED MINIMUM NUMBER OF ACCESSIBLE SPACES
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20, plus 1 for each 100 over 1,000

H. Compliance

Accessibility shall be in compliance with the adopted City Building Code, the State of Michigan Barrier-Free Rules, Michigan Public Act No. 1 of 1966, as amended, and the American with Disabilities Act, as amended.

**Section 10-430 Size of Off-Street Parking Spaces.**

Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements: (See diagram: "Parking Layouts")



Parking Pattern	One-way Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width of One Tier of Spaced Plus Maneuvering Lane	Total Width Two Tiers of Spaces Plus Maneuvering Lane
0 (parallel parking)	15 ft.	8 ft.	23 ft.	23 ft.	31 ft.
30 to 53	15 ft.	9 ft.	21 ft.	36 ft.	57 ft.
54 to 74	18 ft.	9 ft.	21 ft.	37 ft.	60 ft.
75 to 90	25 ft. <sup>1</sup>	9 ft.	19 ft.	44 ft.	63 ft.

<sup>1</sup> 25 foot wide two-way maneuvering lane is permitted for 90 degree parking.

**Section 10-440 Location of Off-Street Parking Spaces.**

All off-street parking shall be located on the lot on which those to be served is located, except as provided in Section 10-441, and subject to the requirements of Section 10-451.

**Section 10-441 Customer-Employee Parking Lots.**

Uses located in District RO-1, C-1, C-2, RS-1 or O-1 may provide off-street parking satisfying the requirement of Section 10-421 within 500 feet of the lot to be served if such parking is located in District RO-1, C-1, C-2, RS-1 or O-1.

**Section 10-450 Condition of Off-Street Parking Lots.**

- A. The parking surface shall be covered with a pavement having an asphalt or cement binder and shall be graded and drained to the storm sewer so as to dispose of surface water which might accumulate within or upon such area. No surface water from such parking area shall be permitted to drain onto adjoining property.
- B. When lighting facilities are used, reflectors shall be installed to reflect the light away from adjacent residential areas. The source of illumination shall not be more than 13 feet above parking lot surface.

**Section 10-451 Required Improvements to Off-Street Parking Lots.**

Side yards shall be maintained for a space of not less than 10 feet between the side lot lines of adjoining lots and the parking area. The depth of the front yard or setback line from the street as established for houses in any block in any given residential area shall be continued and made applicable to parking space in such residential area. It shall be unlawful to use the space between such setback line and the sidewalk for the parking of motor vehicles; provided, that the barrier specified in the next succeeding subsection shall be located in the setback line as required in this subsection. Landscape requirements for parking lots are specified in Section 10-282.1.F. and Section 10-282.D.3 and E.4.

**Section 10-452 Required Screening of Off-Street Parking Lots.**

Whenever a parking area adjoins residential property or a residential street or alley an ornamental masonry wall four (4) feet in height shall be erected and maintained between the required yard space and area to be used for parking. On such other locations where a protective barrier is required, the use of an ornamental masonry wall or dense shrubbery may be permitted by the Council after recommendation by the City Planning Commission. All required walls, fences, or other barriers shall be properly maintained and kept free of debris, signs or any advertising whatsoever. Bumper guards, comprising either a curb at least six (6) inches high or steel posts 24 to 30 inches high and not more than five (5) feet apart set three (3) feet in concrete, shall be provided to prevent vehicles from striking such wall or shrubbery.

**Section 10-453 Off-Street Parking Lot Entrances.**

Entrance to such off-street parking area shall be only from adjoining principal use or adjoining alley.

**Section 10-454 Operation of Off-Street Parking Lots.**

- A. It shall be unlawful for any person to leave, park or store any motor vehicle or to permit

any motor vehicle to be left, parked or stored in a parking lot permitted in this section for a period of longer than 18 hours. It is the purpose and intent of this provision that the requirement is to provide for keeping parking motor vehicles off the streets, but such requirement is not designed to permit the storage of wrecks or junked cars or vehicles. It shall be unlawful to park or permit to be parked any motor vehicle in such parking area between the hours of 12:00 midnight and 6:00 a.m. the following morning, unless the adjacent business maintaining such parking area remains open after midnight, in which case the lot shall be closed and all parked cars removed within 30 minutes after the business has closed.

- B. During the time the parking lot is closed and not available for the parking thereon of motor vehicles, a suitable chain or gate shall be placed across every exit and entrance for motor vehicles. Such chain or gate shall be securely locked and access to the lot effectively barred.
- C. No charge for parking shall be made in an off-street parking area permitted under this section.
- D. The use of any loud noise producing device or public address system shall be prohibited upon off-street parking lots permitted by this section.

#### **Section 10-455 Off-Street Parking Lots in Residential Districts.**

Off-street parking lots may be permitted in all residential districts by the Council after receipt from the City Planning Commission of a written recommendation and after public hearing, when it is reasonably indicated that business or non-residential property in adjoining or adjacent areas is unavailable or impractical for the development of an off-street parking facility.

An approved off-street parking area as permitted under this Section shall be considered a conditional accessory use to adjoining business property and as such is to be used for customer vehicle parking of such adjoining business only including passenger vehicles and trucks up to one-half ton capacity. Penetration of residential property for the establishment of an off-street parking area shall not exceed 120 feet measured at right angles from the residential property line adjoining such business district and shall utilize vacant lots nearest the public alley. All off-street parking lots in residential districts shall be subject to the following requirements:

- A. No repairs, service to vehicles or display of vehicles for the purpose of sale shall be carried on or permitted upon such premises.
- B. No advertising signs shall be erected on the premises, but one sign may be erected at each of the points of ingress or egress and such sign may bear the name of the operator of the lot and the enterprise it is intended to serve. Such sign shall not exceed 20 square feet in area and an overall height of 15 feet above the ground and shall not project beyond the property line of the premises.
- C. The City Council may attach such conditions and safeguards as may be required before any such accessory off-street parking lot is permitted.

#### **Off-Street Loading**

#### **Section 10-460 Off-Street Loading Requirements.**

On the same premises with every building, structure or part thereof, erected, and occupied for storage, goods display, department store, market, hospital, laundry, dry cleaning or other uses similarly involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets and alleys.

**Section 10-461 Schedule of Off-Street Loading Requirements.**

Each business shall provide the number of off-street loading spaces indicated to the following schedule:

<u>Gross Floor Area (In Square Feet)</u>	<u>Number of Required Parking Spaces</u>
0 - 4,999 square feet	none required
5,000 - 19,999 sq. ft.	1 space
20,000 to 99,999 sq. ft.	1 space, plus 1 space for each 20,000 sq. ft. in excess of 20,000 sq. ft.
100,000 - 499,999 sq. ft.	5 spaces plus one 1 space for each 40,000 sq. feet in excess of 100,000 square feet.
100,000 - 500,000	Five (5) spaces plus one (1) space for each 40,000 square feet in excess of 100,000 square feet.
Over 500,000	15 places plus one (1) space for each 80,000 square feet in excess of 100,000 square feet.

**Section 10-462 Size of Off-Street Loading Spaces.**

Such off-street loading space, unless otherwise adequately provided for, shall be an area 12 feet

**Section 10-463 Location and Required Screening of Off-Street Loading Spaces.**

No loading space shall be located closer than 50 feet from any residentially zoned district unless located within a completely enclosed building or enclosed on all sides facing a residential zoning district by a solid masonry wall or ornamental fence of a type approved by the Zoning Board of Appeals for less than six (6) feet in height.

**Access Management**

**Section 10-480 Access Management.**

**Section 10-481 Purpose, Intent and Application.**

- A. **Purpose.** The provisions of this Article are intended to promote safe and efficient travel within the City, minimize disruptive and potentially hazardous traffic conflicts, ensure safe access by emergency vehicles, protect the substantial public investment in the street system by preserving capacity and avoiding the need for unnecessary and costly reconstruction which disrupts business and traffic flow, separate traffic conflict areas by

reducing the number of driveways, provide safe spacing standards between driveways and between driveways and intersections, provide for shared access between abutting properties, implement the Master Plan, ensure reasonable access to properties though not always by the most direct access, and coordinate access decisions with the Michigan Department of Transportation (MDOT) and Wayne County Department of Public Services, where applicable.

- B. **Application.** The standards of this Article may apply to private and public land along street rights-of-way that are under the jurisdiction of the City of Harper Woods and/or the Wayne County Department of Public Services. The requirements and standards of this Article shall be applied in addition to, and where permissible shall supersede the requirements of MDOT or the Wayne County Department of Public Services.

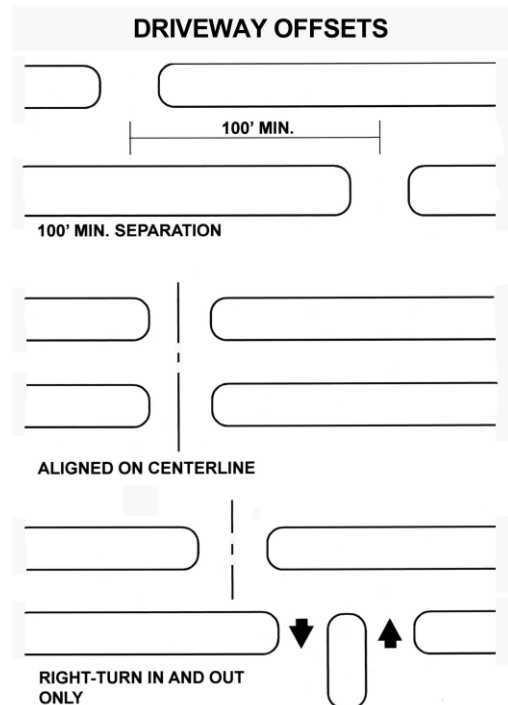
**Section 10-482 One Access Per Parcel.**

- A. All lots of record as of the effective date of the amendment adding this provision to the Ordinance (hereafter referred to as "the parent parcel") that shares a lot line for less than 300 feet with a major street right-of-way, as defined in the Master Plan, shall be entitled to one (1) driveway or road access to the street right-of-way.
- B. Parent parcels with more than 300 feet of frontage on a public street shall also meet the requirements of this Section, except that whether subsequently divided or not, they are entitled to not more than one driveway for each 300 feet of street frontage thereafter, unless the Planning Commission determines, after reviewing a traffic impact study and analysis prepared by a registered traffic engineer, that topographic conditions, street curvature or sight distance limitations necessitate a second driveway within a lesser distance.
- C. Driveways on major streets, as defined in the Master Plan, shall be aligned or offset in accordance with the Driveway Offsets diagram.

**Section 10-483 Application Review, Approval and Coordination.**

All lots hereafter created and all structures hereafter created, altered or moved on property with frontage on or access to a public street that is subject to regulation per the standards of this Article shall conform with the following requirements:

- A. Standards of road authorities apply. All applicable standards of the City, Wayne County Department of Public Services and Michigan Department of Transportation shall be satisfied prior to approval of an access application under this Article.
- B. Application, review and approval process. Applications for driveway or access approval shall be made on a form available from the City of Harper Woods or Wayne County Department of Public Services, and shall be accompanied by clear, scaled drawings (minimum of 1"=20') showing the following items:



1. Location and size of all structures proposed on the site.
  2. Size and arrangement of parking stalls and aisles.
  3. Driveway placement and a proposed plan for routing of vehicles entering and leaving the site (if passenger vehicles are to be separated from delivery trucks indicate such on drawing).
  4. Property lines and street right-of-way lines.
  5. Intersecting roads, streets and driveways within three hundred feet (300') to either side of the property and on both sides of the street.
  6. Width of right-of-way and road surface, and type of surface and dimensions of driveways.
  7. Proposed inside and outside turning radii.
  8. Show all existing and proposed landscaping, signs, and other structures or treatments within and adjacent to the right-of-way.
  9. Traffic impact study and analysis, and trip generation survey results, obtained from a licensed traffic engineer for all developments with over 100 directional vehicle trips per peak hour.
  10. Design dimensions and justification for any alternative or innovative access design.
  11. Dumpsters or other garbage containers.
- C. Applicants are strongly encouraged to rely on the following sources for access designs, the National Access Management Manual (TRB, 2002), National Cooperative Highway Research Program's (NCHRP), Access Management Guidelines to Activity Centers (Report 348) and Impacts of Access Management Techniques (Report 420), and the AASHTO "Green Book" A Policy on Geometric Design of Highways and Streets. The following techniques are addressed in these guidebooks and are strongly encouraged to be used when designing access:
1. Not more than one driveway access per abutting road.
  2. Shared driveways or service drives.
  3. Parking lot connections with adjacent property.
  4. Other appropriate designs to limit access points on an arterial or collector.
- D. Applications shall be accompanied by an escrow fee for professional review in accordance with Section 1.05 , Schedule of Fees, Charges and Expenses.
- E. Review process. The following process shall be completed to obtain access approval:
1. An access application shall be submitted to the Building Inspector, and on the same day to the Wayne County Department of Public Services where applicable.
  2. The completed application must be received by the Building Inspector at least 20 days prior to the Planning Commission meeting where the application will be reviewed.



3. The applicant, Building Inspector and representatives of the Wayne County Department of Public Services, and City Planning Commission shall meet prior to the Planning Commission meeting to review the application and proposed access design.
4. The Planning Commission shall review and approve or deny the application, or request additional information. Conditions may be imposed by the Planning Commission to ensure conformance with the terms of any access permit. Where the Wayne County Department of Public Services has jurisdiction, this action shall be a recommendation to the MCRC. The Wayne County Department of Public Services shall review the access application and recommendation of the Planning Commission, and shall take one of the following actions:
  - a. If the Planning Commission and the Department of Public Services approve the application as submitted, the access application shall be approved.
  - b. If both the Planning Commission and the Department of Public Services deny the application, the application shall be denied.
  - c. If either the Planning Commission or Department of Public Services requests additional information, approves with conditions or does not concur in approval or denial, there shall be a joint meeting of the Building Inspector, a representative of the Planning Commission and staff of the Wayne County Department of Public Services and the applicants. The purpose of this meeting will be to review the application to obtain concurrence between the Planning Commission and the applicable road authorities regarding approval or denial and the terms and conditions of any permit approval.
  - d. No application will be considered approved, nor will any permit be considered valid unless all the above-mentioned agencies have indicated approval, except where such agencies do not have jurisdiction, or where approval would violate adopted regulations of the agency. In this case the application shall be denied by that agency and the requested access shall not be constructed.
5. The Building Inspector shall keep a record of each application that has been submitted. Approval of an application remains valid for a period of one (1) year from the date it was authorized. If authorized construction is not initiated by the end of one (1) year, the authorization shall expire. Re-issuance of an authorization that has expired shall require a new access application to be approved independently of any previous action.
6. An approval may be extended for a period not to exceed six (6) months. The extension must be requested, in writing by the applicant before the expiration of the initial approval. The Building Inspector may approve the extension, provided there are no deviations from the original approval, no violations of applicable ordinances, and no development on abutting property that would create an unsafe condition. If there is any deviation or cause for question, the Building Inspector shall consult the Planning Commission or Wayne County Department of Public Services, as applicable, for input.
7. The applicant shall assume all responsibility for all maintenance of such driveway approaches from the right-of-way line to the edge of the traveled roadway.

8. Where authorization has been granted for entrances to a parking facility, said facility shall not be altered or the plan of operation changed until a revised access application has been submitted and approved.
9. Application to construct or reconstruct any driveway entrance and approach to a site shall also cover the reconstruction or closing of all nonconforming or unused entrances and approaches to the same site at the expense of the property owner.
10. When a permit is sought for the reconstruction, rehabilitation or expansion of an existing site, use or change of use for any lot or structure, all of the existing and proposed driveway approaches and parking facilities shall be brought into compliance with all design standards of this Ordinance prior to the issuance of certificate of occupancy.
11. In accordance with Section 1.06 (Performance Guarantees), the City of Harper Woods may require a performance guarantee in any sum not to exceed \$5,000.00 for each driveway approach or access to ensure compliance with an approved application. The guarantee shall be returned to the applicant when the terms of the approval have been met or when the authorization is canceled or terminated.

#### **Section 10-484 Traffic Impact Studies.**

Where authorized by this Ordinance, the Planning Commission may require a traffic impact study, prior to consideration of an application. The City may utilize its own traffic consultant to review the applicant's traffic impact study, with the cost of the review being borne by the applicant per Section 10-7025, Fees. At a minimum the study shall include:

- A. An analysis of existing traffic conditions and/or site restrictions using current data.
- B. Projected trip generation at the subject site or along the subject service drive based on the most recent edition of the Institute of Transportation Engineers' Trip Generation manual. The City may approve use of other trip generation data if based on recent studies of at least three (3) similar uses within similar locations in Michigan.
- C. Illustrations of current and projected turning movements at access points, including identification of potential impacts of the development on the operation of the abutting streets. Capacity analysis shall be based on the most recent edition of the of the Transportation Research Board's Highway Capacity Manual, and shall be provided in an appendix to the traffic impact study.
- D. Description of the internal vehicular circulation and parking system for passenger vehicles and delivery trucks, as well as the circulation system for pedestrians, bicycles and other users.
- E. Justification of need, including statements describing how any additional access will meet the intent of this Section and be consistent with the Master Plan and any sub-area or corridor plans, while not compromising public safety and not reducing capacity or traffic operations along the roadway.

Qualifications and documented experience of the author in preparing traffic impact studies in Michigan. The preparer shall be either a registered traffic engineer (P.E.) or a transportation planner, with at least three (3) years of experience preparing traffic impact studies in Michigan. If the traffic impact study involves geometric design, the study shall be prepared or supervised by a registered engineer with adequate experience in traffic engineering.



## **ARTICLE V - PERFORMANCE STANDARDS**

### **Section 10-500 Performance Standards, General.**

#### **A. Intent.**

The purpose of this Article is to establish controls on the impacts generated by permitted uses so as to prevent an unreasonable negative impact that might interfere with another person's use of his or her property, or that might cause harm to the public health, safety, and welfare.

#### **B. Scope of Application.**

1. After the effective date of this Ordinance, no structure or tract of land shall hereafter be used or occupied, and no structure, or part thereof, shall be erected, altered, reconstructed, or moved, except in conformity with all applicable performance standards set forth in this Article.
2. No activity, operation or use of land, buildings, or equipment shall be permitted if such activity, operation, or use produces an environmental impact or irritant to sensory perception which exceeds the standards set forth in this Article.
3. No site plan shall be approved unless evidence is presented to indicate conformity with the requirements of this Article.

#### **C. Submission of Additional Data.**

Nothing in this Article shall preclude the applicant or other interested party from submitting additional data or evidence related to a specific case. In consideration of such data or evidence, the Planning Commission may waive or modify the regulations set forth in this Article, provided that the Planning Commission finds that no harm to the public health, safety and welfare will result and that the intent of the this Chapter will be upheld.

### **Section 10-501 Procedures for Determining Compliance.**

In the event that the City receives complaints or otherwise acquires evidence of possible violation of any of the performance standards set forth in this Article, the following procedures shall be used to investigate, and if necessary, resolve the violation:

#### **A. Official Investigation.**

Upon receipt of evidence of possible violation, the Building Inspector shall make a determination whether there is reasonable cause to suspect the operation is indeed in violation of the performance standards. The Building Inspector may initiate an official investigation in order to make such a determination.

Upon initiation of an official investigation, the Building Inspector is empowered to require the owner or operator of the facility in question to submit data along with any evidence deemed necessary to make an objective determination regarding the possible violation within a time period specified by the Building Inspector, but in every case a reply must be

forthcoming within three (3) calendar days from the receipt of notice. Failure of the owner or operator to supply requested data within the stated time period shall be considered an admission of violation and provide prima facie evidence of grounds for taking any action, including legal action, to terminate the use and/or deny or cancel any permits or licenses required for continued use of the land. Data which may be required includes, but is not limited to the following:

1. Plans of the existing or proposed facilities, including buildings and equipment.
2. A description of the existing or proposed machinery, processes, and products.
3. Specifications for the mechanisms and techniques used or proposed to be used to control emissions regulated under the provisions of this Article.
4. Measurement of the amount or rate of emissions of the material, including but not limited to, heat, sound, and glare, purported to be in violation.
5. Copies of studies, reports, specifications, and any other compilation of data.

**B. Method and Cost of Determination.**

The Building Inspector shall take measurements, or cause measurements to be taken by a competent contractor, and complete investigation necessary to make an objective determination concerning the purported violation. Where required measurements and investigation can be accurately made by the Building Inspector using equipment and personnel normally available to the City without extraordinary expense, such measurements and investigation may be completed before notice of violation is issued. If necessary, skilled personnel and specialized equipment or instruments shall be secured in order to make the required determination.

If the alleged violation is found to exist in fact, the costs of making such determination shall be charged against those responsible, in addition to such other penalties as may be allowable. If the bill is not paid within 30 days, the City shall take whatever appropriate action is necessary to recover such costs, or alternately, the cost shall be charged against the property where the violation occurred. If it is determined that no substantive violation exists, then the costs of this determination shall be paid by the City.

**C. Appropriate Remedies.**

If, after appropriate investigation, the Building Inspector determines that a violation does exist, the Building Inspector shall take or cause to be taken lawful action as provided by this Ordinance or any State or Federal regulation to eliminate such violation. The owners or operators of the facility deemed responsible shall be given written notice of the violation. The Building Inspector shall take appropriate action in accordance with the owner or operator's response to the notice of violation. Appropriate action includes the following:

1. Correction of Violation within Time Limit  
If the alleged violation is corrected within the specified time limit, even if there is no reply to the notice, the Building Inspector shall note "Violation Corrected" on the City's copy of the notice, and the notice shall be retained on file. If

necessary, the Building Inspector may take other action as may be warranted by the circumstances of the case, pursuant to this Ordinance and any other applicable regulation.

2. Violation Not Corrected and No Reply from Owner or Operator

If there is no reply from the owner or operator within the specified time limits, and the alleged violation is not corrected in accordance with the regulations set forth in this Article, then the Building Inspector shall take any action reasonably calculated to correct or abate the violation.

3. Reply Requesting Extension of Time

If the alleged violator responds to the City within the specified time limit of the original notice and requests an extension of time, the Building Inspector shall review the information submitted with the reply. Upon finding that an extension is warranted because of unique circumstances and that an extension will not cause imminent peril to life, health, or property, the Building Inspector may extend the specified time limit to a date certain, if the Building Inspector concurs that:

- a. The information requested pursuant to Section 10-502 (A) is impractical to readily produce, or
- b. An extreme hardship exists, or
- c. The reply indicates that an alleged violation shall be corrected or abated by the date certain and that all future operations shall comply with the regulations as set forth herein.

4. Reply Requesting Technical Determination

If a reply is received within the specified time limit requesting further review and technical analysis even though the alleged violations continue, then the Building Inspector may call in properly qualified experts to complete such analysis and confirm or refute the initial determination of violation.

If expert findings indicate that violations of the performance standards do exist in fact, the costs incurred in making such a determination shall be paid by the persons responsible for the violations, in addition to such other penalties as may be appropriate under the terms of this Ordinance or other applicable regulations. Such costs shall be billed to those owners or operators of the subject use who are deemed responsible for the violation. If the bill is not paid within 30 days, the City shall take whatever appropriate action is necessary to recover such costs, or alternately, the cost shall be charged against the property where the violation occurred. If no substantial violation is found, cost of determination shall be paid by the City.

**D. Continued Violation.**

If, after the conclusion of the time period granted for compliance, the Building Inspector finds that the violation still exists, any permits previously issued shall be void and the City may initiate appropriate legal action, including possible pursuit of remedies in Circuit Court.

## **Section 10-510 Noise and Vibrations.**

No activity, operation or use of land, buildings, or equipment shall be permitted if such activity, operation, or use produces an environmental impact or irritant to sensory perception which exceeds the standards set forth in this Section.

### **A. Noise and Vibration.**

#### **1. Definitions**

The terms used in this section shall have the meaning ascribed to them as follows. Terms used in this section but not defined below or in Section 10-120 shall have the meaning ascribed to them by the American National Standards Institute (ANSI) or its successor body.

##### **a. A-Weighted Sound Level**

The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).

##### **b. Day-Night Average Sound Level**

The 24-hour energy average of the A-weighted sound pressure level, with the levels during the period of 10:00 pm to 7:00 am the following day increased by 10 dB(A) before averaging.

##### **c. Emergency**

Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate attention.

##### **d. Equivalent A-Weighted Sound Level ( $L_{eq}$ )**

The constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. (For the purposes of this Ordinance, a time period of twenty-four (24) hours shall be used, unless otherwise specified.)

##### **e. Impulse Sound**

Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and discharge of firearms.

##### **f. Noise Disturbance**

Any sound which (a) endangers or injures the safety or health of humans or animals, or (b) annoys or disturbs a reasonable person of normal sensitivities, (c) endangers or injures personal or real property, or (d) exceeds the Maximum Permitted Sound Levels in the following Table A, sub-section 5.

##### **g. Noise Sensitive Zone**

An area which contains noise-sensitive activities, such as but not limited to, operations of schools, libraries, churches, hospitals, and nursing homes.

##### **h. Pure Tone**

Any sound which can be distinctly heard as a single pitch or a set of single pitches.

i. RMS Sound Pressure

The square root of the time averaged square of the sound pressure, denoted  $P_{rms}$ .

j. Sound

An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium.

k. Sound Level

The weighted sound pressure level obtained by the use of a sound level meter and frequency weighing network (for the purposes of this ordinance an A-weighted network), as specified by the American National Standards Institute.

l. Sound Pressure

The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

m. Sound Pressure Level

20 times the logarithm to the base of 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals ( $20 \times 10^{-6}$  N/m<sup>2</sup>). The sound pressure level is denoted  $L_p$  or SPL and is expressed in decibels.

n. Vibration

An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity, or acceleration with respect to a given reference point.

2. Prohibited Acts

a. Noise Disturbances Prohibited

No person shall make, continue, or cause to be made or continued, any noise disturbance.

b. Loading and Unloading

Loading and unloading, opening, closing, or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects shall be prohibited between the hours of 6:00 pm and 7:00 am in such a manner as to cause a noise disturbance across a residential district boundary or within a noise sensitive zone.

c. Construction

Operation of any tools or equipment used in construction, drilling, or demolition work shall be prohibited between the hours of 6:00 pm and 7:00 am on weekdays or any time on Sundays or holidays, such that the



sound therefrom creates a noise disturbance across a residential district boundary or within a noise sensitive zone, except for emergency work of public service utilities.

d. Vibration

Operating any device that creates vibration which is above the vibration perception threshold of an individual at or beyond the property of the source shall be prohibited. For the purposes of this section, "vibration perception threshold" means the minimum ground or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

e. Noise Sensitive Zones

Creating any sound within any noise sensitive zone so as to disrupt the activities normally conducted within the zone shall be prohibited, provided that conspicuous signs are displayed indicating the presence of the zone.

3. Exceptions

a. Emergency Exceptions

The provisions in this section shall not apply to (a) the emission of sound for the purpose of alerting persons to existence of an emergency, or (b) the emission of sound in the performance of emergency work.

b. Additional Exceptions

The provisions in this section shall not apply to the following activities, provided that such activities are conducted in a legally-accepted manner:

- Snow plowing, street sweeping, and other public works activities.
- Bells, chimes, and carillons of places of worship.
- Lawn care and house maintenance that occurs between 9:00 a.m. and 9:00 p.m.

4. Variances

An application for a variance from the provisions in this section may be submitted to the Zoning Board of Appeals. The owner or operator of equipment on the property shall submit a statement regarding the effects of noise from the equipment on the overall noise level in the area. The statement shall include a study of the background noise levels, predicted level on noise at the boundary line due to the proposed operation, and justification for the variance. Upon review of the request for a variance, the Zoning Board of Appeals may grant a variance where strict adherence to the permitted sound level would create unnecessary hardship and only if the variance will not create a threat to the health, safety, and welfare of the public. The Zoning Board of Appeals may impose conditions of operation when granting a variance.

5. Maximum Permitted Sound Levels by Receiving Zoning District

No person shall operate or cause to be operated any source of sound in such a

manner as to create a sound level which exceeds the limits set forth for the receiving zoning district in Table A when measured at or within the property boundary of the receiving district. All measurements and designations of sound levels shall be expressed in day-night average sound levels ( $L_{dn}$ ).

**Table A**  
**Maximum Permitted Average A-Weighted Sound Levels**

<u>Receiving Zoning District</u>	<u>Average Sound Level, dB(A)</u>
Residential	55
Commercial (not noise sensitive)	65
Commercial (noise sensitive)	55

**Notes:**

- a. Correction for Tonal Sounds. For any source of sound which emits a pure tone sound, the maximum sound level limits in Table A shall be reduced by 5 dB(A) where the receiving district is residential or commercial-noise sensitive.
  - b. Correction for Impulsive or Impact-Type Sounds. For any source of sound which emits an atypical impulsive or impact-type sound, the maximum sound level limits in Table A shall be reduced by 5 dB(A) where the receiving district is residential or commercial-noise sensitive.
  - c. Planned Development. Where the receiving district is a Planned Development District, the applicable standard in Table A shall be based on the most noise sensitive use within the planned development.
6. Measurement of Sound  
 The Zoning Administrator shall be responsible for developing and promulgating testing methods and procedures. In performing this task, the Zoning Administrator may consult with outside specialists in the field of sound measurement and control.
  7. Permitted Land Use  
 No new or substantially modified structure shall be approved for construction unless the owner or developer of such land demonstrates that the completed structure and the activities associated with and on the same property as the structure will comply with the sound/noise standards set forth in this section at all times of full-scale operation of such activities.
  8. Applicability of City Noise Control Regulations  
 The sound and noise standards set forth in this Section are intended to be used chiefly as performance standards to assist the Planning Commission and other City officials in determining whether a proposed development will generate a noise disturbance. In contrast, the Noise Control regulations set forth in Chapter 15 of the Code of Ordinances are intended to be used chiefly by police or health officials to regulate and/or curtail specific noise occurrences generated by an

existing source.

**Section 10-520 Airborne Emissions and Particles.**

**Dust, Smoke, Soot, Dirt, Fly Ash and Products of Wind Erosion.** Dust, smoke, soot, dirt, fly ash, and products of wind erosion shall be subject to the regulations established in conjunction with the Air Pollution Act, Michigan Public Act 348 of 1965, as amended, or other applicable state or federal regulations. No person, firm or corporation shall operate or maintain any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, unless such processes or devices use or are equipped with recognized and approved equipment, methods, or technology to reduce the quantity of gas-borne or airborne solids or fumes emitted into the open air.

The drifting of air-borne matter beyond the lot line, including wind-blown dust, particles or debris from open stock piles, shall be prohibited. Emission of particulate matter from materials, products, or surfaces subject to wind erosion shall be controlled by paving, oiling, wetting, covering, landscaping, fencing, or other means.

**Section 10-530 Odor.**

Offensive, noxious, or foul odors shall not be allowed to escape into the atmosphere in concentrations which are offensive, which produce a public nuisance or hazard on adjoining property, or which could be detrimental to human, plant, or animal life.

**Section 10-540 Glare and Heat.**

Any operation or activity which produces glare shall be conducted so that direct and indirect illumination from the source of light does not exceed one-half (½) of one (1) footcandle when measured at any point along the property line of the site on which the operation is located. Any operation which produces intense glare or heat shall be conducted within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot lines.

**Section 10-550 Fire and Safety Hazards.**

- A. **General Requirements.** The storage and handling of flammable or combustible liquids or gases, and explosives shall comply with all applicable federal, state, county and local regulations. All underground storage tanks shall be registered with the Michigan Department of Environmental Quality, in accordance with Public Act 165 of 1985, as amended. The location and contents of all such tanks shall be indicated on the site plan.
- B. **Detonable Materials.** The storage, utilization, or manufacture of detonable materials shall be permitted subject to approval by the Fire Chief and the following restrictions:

<b><u>Proposed Activity</u></b>	<b><u>Restrictions</u></b>
Storage, utilization or manufacture of 5 lbs. or less	Not Permitted
Storage or Utilization of over 5 lbs.	Not Permitted
Manufacture of over 5 lbs.	Not Permitted

Detonable materials covered by these requirements include, but are not necessarily limited to the following:

- a. all primary explosives such as lead azide, lead styphnate, fulminates, and tetracene.
- b. all high explosives such as TNT, RDX, HMX, PETN, and picric acid
- c. propellants and components thereof such as dry nitrocellulose, black powder, boron hydrides, and hydrazine and its derivatives.
- d. pyrotechnics and fireworks such as magnesium powder, potassium chlorate, and potassium nitrate.
- e. blasting explosives such as dynamite and nitroglycerine.
- f. unstable organic compounds such as acetylides, tetrazoles, and ozonides.
- g. strong unstable oxidizing agents such as perchloric acid, perchlorates, and hydrogen peroxide in concentrations greater than 35 percent.
- h. nuclear fuels, fissionable materials and products, and reactor elements such as Uranium 235 and Plutonium 239.

3. **Liquified Petroleum Gas**

The storage or utilization of liquified petroleum gas shall be permitted subject to approval by the Fire Chief and the following restrictions:

<b><u>Proposed Activity</u></b>	<b><u>Restrictions</u></b>
Storage, of 80 lbs. or less	Permitted Utilization Accessory Use in All Districts
Storage, Utilization of more than 80 lbs.	Not Permitted

**Section 10-560 Sewage Wastes and Water Pollution.**

Sewage disposal (including septic systems) and water pollution shall be subject to the standards and regulations established by Federal, state, county and local regulatory agencies, including the Michigan Department of Health, the Michigan Department of Environmental Quality, the

Wayne County Health Department, and the U. S. Environmental Protection Agency.

**Section 10-570 Electromagnetic Radiation and Radio Transmission.**

Electronic equipment required in a commercial, or other operation shall be designed and used in accordance with applicable rules and regulations established by the Federal Communications Commission (FCC). The operation of such equipment shall not interfere with the use of radio, television, or other electronic equipment on surrounding or nearby property.

**Section 10-580 Radioactive Materials.**

Radioactive materials, wastes and emissions, including electromagnetic radiation such as from an x-ray machine, shall not exceed levels established by Federal agencies which have jurisdiction. No operation shall be permitted that causes any individual outside of the lot lines to be exposed to any radiation exceeding the lowest concentration permitted for the general population by federal and state laws and regulations currently in effect.

**ARTICLE VI - DISTRICT REGULATIONS**

**Section 10-600 District Regulations, General.**

Buildings and uses in any district shall be subject to all applicable standards and requirements set forth in this article, as well as those set forth in this chapter.

**Section 10-601 Schedule of Regulations.**

Zoning District	Minimum Lot Width (in feet)	Minimum Lot Area (in sq. feet)	Maximum Lot Coverage (Percent)	Maximum Heights		Minimum Yard Setbacks in Feet (Unobstructed)					Additional Restrictions
				In Stories	In Feet	At least one	Total of Two	Side Yard Adjacent to a Street	Front	Rear	
R-1A	80	9,600	35	2	30	5j	14	20	25i	35	a
R-1B	50	5,500	35	2	30	4j	13	6	25i	35	a
R-1C	50	5,000	35	2	30	4j	13	6	25i	35	a
R-2	50	7,500 b	35	2-1/2	35	d,j	d	20	25i	35	e
RO-1	c	-	40	2	30	20	40	20	20i	20i	-
C-1	-	-	-	2h	30h	f	f	-	-	-	g,k
C-2	-	-	-	2	30	f	f	-	-	-	k
RS-1	-	l	40	h	60h	100	200	100	100	100	-
O-1	c	-	40	2	30	20	40	20	20	20	-

Footnotes to Schedule of Regulations

- a. The minimum floor area per dwelling unit shall be at least 800 square feet not including area of basements, breezeways, unenclosed porches, terraces, attached garages, attached sheds or utility rooms.
- b. Minimum land area required for each multiple dwelling unit in the R-2 District shall be:

**Area in Square Feet**

<u><b>Dwelling Unit Type</b></u>	<u><b>Townhouse</b></u>	<u><b>Apartment</b></u>
Efficiency or one-bedroom unit	3,000	4,200
Two-bedroom unit	4,200	5,400
Three-bedroom unit	5,400	7,200
Four or more bedroom unit	7,200	7,200

No multiple dwelling shall be erected on a lot or parcel which has a width of less than 80 feet or an area of less than 8,000 square feet.

- c. No building or structure may extend in width along a front property line, paralleling the street, greater than the depth of the lot on which the building or structure is located.
- d. For every lot on which a multiple, row or terrace dwelling is erected, there shall be provided a side yard on each side of the lot. Each side yard shall be increased beyond the yard spaces indicated by one foot for each 10 feet or part thereof by which the length of the multiple, row or terrace dwelling exceeds 40 feet in overall dimension along the adjoining side lot line.
- e. Minimum floor area for each multiple dwelling permitted in the R-2 District shall be:

<u>Dwelling Unit Type</u>	<u>Area in Sq. Feet</u>	
	<u>Townhouse</u>	<u>Apartment</u>
Efficiency unit	500	500
One-bedroom unit	600	600
Two-bedroom unit	750	800
Three-bedroom unit	950	1,000
Four or more bedroom unit	1,000	1,100

- f. Where any C-1 or C-2 district borders on a side street having a residential zone district on part of its length, there shall be provided a setback of all structures permitted in a C-1 district of not less than 20 feet on the residential street. The setback requirement may be waived or reduced by the City Planning Commission if, in the opinion of the Commission, no useful purpose would be served.
- g. Where motels are permitted in a C-1 district, a minimum of two hundred fifty (250) square feet of floor area per motel unit shall be provided. Where kitchen or cooking facilities are permitted by the City Planning Commission in a motel unit the minimum floor space for such unit shall be 350 square feet.
- h. For high-rise multi-purpose buildings permitted in the C-1 and RS-1 Districts, permitted height may be seven (7) stories or 85 feet subject to the approval of the City Council and Planning Commission.
- i. No off-street parking is permitted in the required 20 foot front or the required 20 foot rear yard when abutting a residentially zoned area.
- j. No principal building shall be constructed closer than 10 feet to any existing building upon on adjoining lot. In the case of a rear yard abutting a side yard of an adjacent lot, the side yard abutting a street shall not be less than 25 feet.
- k. No commercial building shall be erected or altered in a C-1 district having a first floor area of less than 800 square feet or as otherwise approved by the Zoning Board of

Appeals. All commercial buildings in C-1 and C-2 districts shall have a minimum width of 20 feet and minimum depth of 40 feet.

- I. No district shall be zoned as a RS-1 district unless such district is at least 25 acres in size so as to permit an internal system of roads and walks which will effectively separate pedestrian and vehicular traffic.

### **District R-1 - One Family Residential Districts**

#### **Section 10-610 District R-1 - Statement of Purpose.**

The One Family Residential Districts are established primarily to promote a harmonious mixture of single family houses, and related educational, cultural and religious land uses in a basically residential environment. District R-1 is further divided into subdistricts R-1A, R-1B, and R-1C, which differ from each other only in their dimensional requirements, as specified in Section 10-601.

#### **Section 10-611 District R-1 - Principal Permitted Uses.**

- A. Single family residence.
- B. Place of worship (subject to the provisions of Section 10-246) public school, public library, private school and educational institution, municipal park, playfield and playground.
- C. Monastery, convent, or residence of religious order, subject to the provisions of Section 10-246.1.
- D. State licensed residential facilities which provide resident service for six (6) or fewer persons, such as family day care homes, adult foster care family home, foster family homes, foster family group homes, adult care residential facility, and adult day care facility, subject to the regulations of Section 206 of Michigan Public Act 110 of 2006, as amended.
- E. Essential services, subject to the provisions of Section 10-229.
- F. Off-street parking in accordance with the requirements of Article IV.

#### **Section 10-612 District R-1 - Accessory Uses.**

- A. Accessory building or use customarily incident to any of the above permitted uses, is permitted when located on the same or adjoining lot and not involving any business, profession, trade or occupation.
- B. One (1) private garage is permitted for each principal or residential building, said garage not exceeding 700 square feet in area, in which there are housed motor vehicles, provided, that all accessory buildings shall conform to and be located as required in Section 10-225, Accessory Buildings. (See also Section 10-226.1, Storage in Yards and Open Areas and Section 10-226.2, Storage of Fireplace Fuel and Section 10-226-3, Parking and Storage of Mobile Homes and Recreational Vehicles.)



- C. Home occupations, subject to the provisions of Section 10-244.
- D. Accessory buildings shall comply with Section 10-225, Accessory Buildings.

**Section 10-613 District R-1 - Special Land Uses.**

The following land uses are permitted subject to the conditions stated if approved by the City Council, upon recommendation of the Planning Commission in accordance with the provisions of Section 10-770.

- A. Accessory apartment, subject to the provisions of Section 10-241.
- B. Single family cluster options subject to the provisions of Section 10-243.
- C. Hospice, subject to the provisions of Section 10-249 and the following requirements:
  - 1. Site Criteria: the hospice must be located on a lot of record which meets all of the following criteria:
    - a. is a minimum of one-half (½) acre in area.
    - b. has access to major thoroughfare (Harper Avenue, Kelly Road, Vernier Avenue, or the portion of Eight Mile Road west of its intersection with Vernier Avenue) without use of any intervening residential streets.
    - c. does not adjoin any lot containing a single family residence unless the following setback is provided on the subject lot between the hospice building and the lot on which a single family residence is located:
      - (i) 50 feet plus one (1) additional feet for each 1,000 square feet of habitable floor area in excess of 2,000 square feet.
  - 2. Design Criteria: the site design must meet the following criteria:
    - a. The building must contain no more than 12,000 square feet of habitable floor area.
    - b. The hospice may be designed for no more than 20 patients, and no more than 20 patients may reside in the facility at any one time.
    - c. There shall be a minimum of 1,000 square feet of lot area per patient.
    - d. No on-site parking shall be located within the required front yard.
    - e. All on-site parking that is visible from a public street must be screened by a solid masonry wall at least 42 inches in height, by landscape screening at least 42 inches in height, or a combination of the two. The wall shall not be located in the required front yard. The design of the wall and landscape screening shall be subject to review and approval of the Planning Commission.

- 3. Other Requirements: the hospice shall be constructed, maintained, and operated in conformance with applicable state and federal laws, including provisions of the Michigan Hospital Survey and Construction Act (Public Act 299 of 1947, as amended).
- D. Bed and Breakfast Inn, subject to the requirements of Section 10-245.
- E. Group Day Care Home, Child Care Center, subject to the requirements of Section 10-247.
- F. Cemetery, on at least five (5) acres.

**Section 10-614 District R-1 - Uses Requiring Site Plan Review.**

For the following uses, permitted in a R-1A, R-1B, and R-1C District, a site plan must be submitted in accordance with Sections 10-760 through 10-764.

- A. Place of Worship. *(See also design standards under Section 10-246.)*
- B. Public and private school and other educational institution.
- C. Single family cluster. *(See also Section 10-243.)*
- D. Hospice.

**Section 10-615 District R-1 - Area, Height, Bulk and Placement.**

In accordance with Section 10-601, "Schedule of Regulations".

**Section 10-616 District R-1 - Special Requirements.**

Reserved

**District R-2 - Two Family - Multiple Family Residential District**

**Section 10-620 District R-2 - Statement of Purpose.**

The R-2 District is designed to permit residential use of land with duplexes and multiple family dwellings. The areas should be located near major streets for good accessibility and designed to complement adjacent single family areas.

**Section 10-621 District R-2 - Principal Permitted Uses.**

- A. All uses permitted in the R-1A, R-1B and R-1C Districts.
- B. Two family dwelling.
- C. Multiple family dwelling and development, subject to the provisions of Section 10-242.
- D. Converted dwelling.

- E. Housing for the elderly, subject to the provisions of Section 10-242.
- F. Hospital, convalescent or nursing home or hospice, provided that the proposed site for a hospital, nursing or convalescent home or hospice is not less than five (5) acres and that the site is adjacent to a major thoroughfare and provided that the provisions of Sections 10-248 and 10-249, as appropriate, are complied with.
- G. Off-street parking in accordance with the requirements of Article IV.
- H. Accessory building or uses customarily incidental to any other permitted use when located on the same or adjoining lot.

**Section 10-622 District R-2 - Accessory Uses.**

Accessory buildings shall comply with Section 10-225, Accessory Buildings.

**Section 10-623 District R-2 - Special Land Uses.**

The land uses specified in Section 10-613 are permitted subject to the conditions stated if approved by the City Council, upon recommendation of the Planning Commission in accordance with the provisions of Section 10-770.

**Section 10-624 District R-2 - Uses Requiring Site Plan Review.**

For all uses permitted in an R-2 District, a site plan must be submitted in accordance with Sections 10-760 through 10-764

**Section 10-625 District R-2 - Area, Height, Bulk and Placement Requirements.**

AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS. In accordance with Section 10-601, "Schedule or Regulations".

**Section 10-626 District R-2 - Special Requirements.**

Reserved

**District RO-1 - Restricted Office District.**

**Section 10-630 District RO-1 - Statement of Purpose.**

The RO-1, Restricted Office District, is intended to permit those office and restricted business uses which will provide appropriate land uses adjacent to residential areas and which to not generate large volumes of traffic or promote traffic congestion.

**Section 10-631 District RO-1 - Principal Permitted Uses.**

- A. Place of worship, (subject to the provisions of Section 10-246) public school, public library, private school, and educational institution.

- B. Nursery school, day nursery or day care center.
- C. Uses resulting from any of the following occupations: Executive, administrative, professional, accounting, banking, writing, clerical, stenographic and drafting. This shall not be construed to eliminate offices of recognized manufacturers' agents provided that no display will be in an exterior show window and the total area devoted to such display, including both the objects displayed objects, shall not exceed 15 percent of the usable floor area of the establishment using the display of an actual product for sale as a sales procedure. There shall be no outdoor storage of goods or material irrespective of whether or not they are for sale. There shall be no warehousing or the indoor storage of goods or material beyond that normally incidental to the above permitted office type uses.
- D. Medical or dental clinic, not including veterinarian hospital (subject to the provisions of Section 10-248) or any type of medical facility permitting overnight patients.
- E. Photography studio.
- F. Furrier, dressmaking and tailoring establishment.
- G. Store selling prescription drugs only.
- H. Off-street parking in accordance with Article IV.
- I. Accessory buildings or structures shall be prohibited.

**Section 10-632 District RO-1 - Accessory Uses.**

Accessory buildings shall comply with Section 10-225, Accessory Buildings.

**Section 10-633 District RO-1 - Special Land Uses.**

Reserved

**Section 10-634 District RO-1 - Uses Requiring Site Plan Review.**

For all uses permitted in the RO-1, Restricted Office District, a site plan shall be submitted in accordance with Sections 10-760 through 10-764.

**Section 10-635 District R0-1 - Area, Height, Bulk and Placement.**

In accordance with Section 10-601, "Schedule of Regulations".

**District C-1 - General Business District**

**Section 10-640 District C-1 - Statement of Purpose.**

The C-1 General Business District is designed to promote viable commercial land uses along the major thoroughfares in the City. It is intended to integrate local and community business uses in one district and designed to reduce residential-commercial conflict.

**Section 10-641 District C-1 - Principal Permitted Uses.**

- A. All uses permitted in the RO-1 Restricted Office District.
- B. Store or shop for the conducting of retail or retail and wholesale business.
- C. Personal service shop, such as barbershop, beauty parlor, shoe repair shop, tire repair shop, laundry pickup shop, dry cleaning pickup shop, messenger or telegraph service station and any similar service or use.
- D. Bank, restaurant, catering establishment, conservatory, millinery shop, sales showroom, studio, mortuary meeting the requirement of Section 10-251, theater and publicly-owned building.
- E. Establishment within a building or structure for the repair, alteration, finishing, assembling, fabrication or storage of goods or for sale at retail on the premises; provided, that there is not in connection therewith an operation of any activity or the storage or display of goods in such a manner as to be obnoxious or offensive by reason of the omission of odors, fumes, dust, smoke, waste, noise or vibration. No commercial enterprise shall employ more than 10 mechanics or workers on the repair, conversion, finishing or fabrication of goods. All such establishments shall comply with the requirement of Article V.
- F. Public utility building, telephone exchange building, electric transformer station and substation and gas regulator station with service yard, but without storage yard.
- G. Building material storage, provided that such use is entirely enclosed within a building.
- H. Lumber supply, provided that such use is entirely enclosed within a building.
- I. Advertising sign when pertaining to the sale, rental or use of the premises on which it is located or to goods sold or activities conducted therein or when serving primarily as a directional sign or legal notice. Only one such sign is permitted on a lot when not attached to a building.
- J. Any other use similar in character to the other permitted uses which is not obnoxious or offensive to the locality.
- K. New and used car sales and showroom totally enclosed within a building upon approval of the Zoning Board of Appeals.
- L. Automobile car wash establishment, subject to the provisions of Section 10-259 when completely enclosed within a building, including steam cleaning, but not undercoating; provided, that off-street parking space for at least 15 automobiles is provided and developed in accordance with the City's parking lot laws. All entrances and exits to the lot on which the establishment is located shall be approved by the City Planning Commission. The automobile car wash may include, as an accessory use, one (1) oil change bay, subject to review and approval of the Planning Commission. Such approval shall be based on a review of compliance with the following conditions:

1. The oil change bay, including all lubrication equipment, hoists, pit, and storage of new and used oil, shall be totally enclosed within the building that houses the car wash.
  2. The oil change service may be advertised by means of on-site signage, meeting the requirement of Chapter 2.1. Code of Ordinances, only if the oil change service appears on the same sign that advertises the car wash service, in smaller and less prominent letters than the car wash.
  3. There shall be no exterior evidence of the oil change bay, other than signage.
- M. Off-street parking and loading in accordance with Article IV.
- N. Accessory building or structure shall be prohibited.

**Section 10-642 District C-1 - Accessory Uses.**

Accessory buildings shall comply with Section 10-225, Accessory Buildings.

**Section 10-643 District C-1 - Special Land Uses.**

The following uses hereinafter stated shall be permitted by the City Council, after it has conducted a public hearing and after review of the proposed site plan by the City Planning Commission pursuant to procedures and general standards established in Section 10-770, subject to the specific standards for each particular land use hereinafter itemized and subject to site plan review required under Sections 10-644 and 10-760 through 10-764.

- A. Automobile service station subject to the standards set forth in Section 10-256.
- B. Motel, hotel (subject to the provisions of Section 10-252), and drive-in theater; provided that the entrance and exit driveways to and from any such use are located at least 100 feet from the intersection of any two streets and that all such uses shall have direct access to a major thoroughfare and that all lighting or illuminated display shall not reflect onto any adjacent residential zone and that consideration is given to the proximity of existing places of congregation of children and their relationship to safety from traffic hazards and sanitation.
- C. Drive-in restaurant, fast food restaurant, and carry-out restaurant, subject to the standards set forth in Section 10-257.
- D. Open air business, subject to the provisions of Section 10-254.
- E. Planned high-rise multi purpose building. The regulations for a planned high rise building in a C-1 district are intended to provide a degree of flexibility in regard to the area, height, bulk, and placement of buildings in such districts. The permitting of these planned projects upon special approval of the city council can, in certain cases, increase the desirability and convenience to the users without causing adverse effect on adjoining properties. Subject to the above intent, the city council may approve such planned high rise multi-purpose building only after an advisory recommendation has been received from the city planning commission, providing that the following conditions are met:

1. Minimum side, front and rear yard requirements shall be 20 feet. For every five (5) feet the building exceeds 30 feet in height, the yard shall be increased by one (1) foot. Where two (2) or more buildings are to be located on a single lot, the yard spaces between such buildings shall be at least 40 feet.
2. Maximum height shall not exceed 85 feet or seven (7) stories.
3. Total floor space of the building, or buildings, shall not exceed the net site land area. (Floor area ratio of 1.0)
4. Any proposed site for such high-rise structure must front on a major or regional thoroughfare which, for the purposes of this subsection of the Ordinance, shall be construed to be Vernier Road, East Eight Mile Road west of Beaconsfield Avenue, Kelly Road, and Harper Avenue north of Vernier Road. The site of the principal building or buildings must not adjoin any residentially zoned or used area nor shall the principal building or buildings unreasonably restrict the light or air of any residential property owner in nearby residential areas.
5. Off-street parking requirements shall be in accordance with Article IV. In the case of a planned high-rise multi-purpose buildings, the City Planning Commission shall submit copies of such plans to other governmental agencies, such as the Michigan Department of State Highways and Transportation, Wayne County Department of Public Services, Harper Woods Police Department and Harper Woods Fire Department, when the proposed site plan affects their respective jurisdiction, in order that their comments may be incorporated into the City Planning Commission's findings and advisory recommendation in the matter.  
If the City Planning Commission disapproves of the proposed site plan, its reasons for disapproval shall be clearly stated together with recommendations for improving layout so that approval would be merited.

F. Planned multiple project, subject to the following conditions:

1. Minimum net lot area shall be two and one-half (2½) acres.
2. Total floor space of all buildings may not exceed one (1.0) time the total net lot area.
3. In addition to the specific requirements for side, front and rear yards as required in this chapter, each side and front yard shall be increased beyond the required yard spaces five (5) feet for every story in the building the major portion of which is above height of 70 feet. Where two or more buildings are to be located on a single lot, the yard spaces between such buildings shall be at least 40 feet plus five (5) feet for each story by which the higher building exceeds seven (7) stories.

G. Sexually-oriented business, subject to the provision of Section 10-261.

H. Automobile or vehicle sales, subject to the provisions of Section 10-258.

**Section 10-644 District C-1 - Uses Requiring Site Plan Review.**

For all uses permitted in the C-1, General Business District, a site plan shall be submitted in accordance with Section 10-760 through 10-764.

**Section 10-645 District C-1 - Area, Height, Bulk and Placement.**

In accordance with Section 10-601, "Schedule of Regulations".

**District C-2 Special Business District**

**Section 10-650 District C-2 - Special Business District.**

The District C-2 Special Business District is designed to permit retail, service, and other compatible uses that are not primarily automobile-oriented, that benefit from proximity to other similar uses, and that are likely to be patronized by customers who also patronize other businesses in the district during the same visit. This district encourages continuous, pedestrian-oriented storefront facades on major thoroughfares and collector streets.

**Section 10-651 District C-2 - Principal Permitted Uses.**

- A. All uses permitted in the RO-1 Restricted Office District.
- B. Store or shop for the conducting of retail business.
- C. Personal service shop, such as barbershop, beauty parlor, shoe repair shop, tire repair shop, laundry pickup shop, dry cleaning pickup shop, messenger or telegraph service station and any similar service or use.
- D. Bank, restaurant, catering establishment, conservatory, millinery shop, sales showroom, studio, mortuary meeting the requirements of Section 10.251, theater and publicly owned building.
- E. Establishment within a building or structure for the repair, alteration, finishing, assembling, fabrication or storage of goods or for sale at retail on the premises; provided, that there is not in connection therewith an operation of any activity or the storage or display of goods in such a manner as to be obnoxious or offensive by reason of the omission of odors, fumes, dust, smoke, waste, noise or vibration. No commercial enterprise shall employ more than 10 mechanics or workers on the repair, conversion, finishing or fabrication of goods. All such establishments shall comply with the requirements of Article V.
- F. Any other use similar in character to the other permitted uses which is not obnoxious or offensive to the locality.
- G. Off-street parking and loading in accordance with Article IV.
- H. Accessory buildings or structures shall be prohibited.

**Section 10-652 District C-2 - Accessory Uses.**

Accessory buildings shall comply with Section 10-225, Accessory Buildings.



**Section 10-653 District C-2 - Special Land Uses.** Reserved

**Section 10-654 District C-2 - Uses Requiring Site Plan Review.**

For all uses permitted in the C-2, Special Business District, a site plan shall be submitted in accordance with Sections 10-760 through 10-764.

**Section 10-655 District C-2 - Area, Height, Bulk and Placement.**

In accordance with Section 10-601, "Schedule of Regulations".

**District RS-1 - Regional Shopping District**

**Section 10-660 District RS-1 - Statement of Purpose.**

The RS-1 Regional Shopping District is intended to provide for large scale clustered commercial development serving City residents as well as those of adjacent communities. The district provisions are intended to encourage a compatible mixture of commercial and office uses into a well-designed and controlled environment with coordinated traffic flow and minimal adverse impacts on adjoining uses.

**Section 10-661 District RS-1 - Principal Permitted Uses.**

- A. All uses permitted in C-1, General Business District, with the exception of the following: wholesale business, building material storage, lumber supply, advertising signs (except as further regulated by item C, below), new and used car sales, and automobile car wash.
- B. Any other use related to and determined by the Planning Commission to be necessary for the satisfactory operation of a complete and integrated regional shopping center. Such use shall not be obnoxious or offensive to the locality by reason of emission of odors, fumes, dust, smoke, waste, vibration or noise.
- C. Advertising signs in accordance with the City's Sign Ordinance. All signs not attached to a building shall be subject to the review and approval of the Planning Commission.
- D. Off-street parking and loading in accordance with the requirements of Article IV.

**Section 10-662 District RS-1 - Accessory Uses.**

Accessory buildings shall comply with Section 10-225, Accessory Buildings.

**Section 10-663 District RS-1 - Special Land Uses.**

The following uses shall be permitted by the City Council, after it has conducted a public hearing and after review of the site plan by the Planning Commission pursuant to the procedures and general standards established in Section 770, subject to the specific standards for each particular land use hereinafter itemized and subject to site plan review required under Sections 10-664 and 10-760 through 10-764.

- A. Freestanding, single-use buildings, subject to the following conditions:

1. The use shall not take direct access off of any peripheral public street unless it is determined by the Planning Commission that such direct access will not be harmful the traffic pattern of the public street or to adjoining land uses. Where direct access is necessary, joint access with adjacent land uses should be provided, if feasible.
  2. The site shall be landscaped to screen parking from view from adjoining public streets and from adjacent residential uses.
- B. Drive-in facilities, subject to the following conditions:
1. The drive-in facility shall not take direct access off of any peripheral public street unless it is determined by the Planning Commission that such direct access will not be harmful the traffic pattern of the public street or to adjoining land uses. Where direct access is necessary, joint access with adjacent land uses should be provided, if feasible.
  2. Where directly abutting a residential district or located directly across a public street from a residential district, the provisions of Section 10-257 shall be complied with.
  3. The City shall require that the number of stacking spaces provided will meet the anticipated need for the facility. The applicant shall supply information regarding the anticipated number of stacking spaces needed, which the Planning Commission shall review and give a recommendation regarding the needed number of stacking spaces to City Council.
- C. Wholesale businesses, building material storage, or lumber supply, subject to the following conditions:
1. The use shall not take direct access from any peripheral public street unless it is determined by the Planning Commission that such direct access will not be harmful to the traffic pattern of the public street or to adjoining land uses. Where direct access is necessary, joint access with adjacent land uses should be provided, if feasible.
  2. The site shall be landscaped to screen parking from view from adjoining public streets and from adjacent residential uses.
  3. All storage of materials must be within an enclosed building.
- D. Automobile service stations, subject to the standards set forth in Section 10-256 and to the additional condition that direct access may be taken only from a major thoroughfare (Kelly Road, Eight Mile Road west of Vernier, Vernier Road, and Harper Avenue).
- E. Automobile wash establishment, subject to the following conditions:
1. The minimum lot area required shall be ten thousand (10,000) square feet.

2. All washing activities shall be carried on within a fully enclosed building. Vacuum activities shall be permitted in the rear yard only, provided such activities are located at least 25 feet from adjacent residentially-zoned or -used property.
  3. The use shall not take direct access off of any peripheral public street unless it is determined by the Planning Commission that such direct access will not be harmful the traffic pattern of the public street or to adjoining land uses. Where direct access is necessary, joint access with adjacent land uses should be provided, if feasible. In no case shall entrances or exits face abutting residentially-zoned or -used property.
  4. Sufficient space shall be provided on the lot so that vehicles do not enter or exit the wash building directly from an adjacent street or alley. A minimum of 15 stacking spaces for the entire facility or 10 spaces per service bay, whichever is greater, shall be provided. All maneuvering areas, stacking lanes, and exit aprons shall be located within the car wash property. Streets and alleys shall not be used for maneuvering or parking by vehicles to be serviced by the automobile wash establishment.
  5. Buildings shall be oriented so that open bays do not face onto adjacent thoroughfares unless screened by an adjoining lot, building or obscuring wall complying with the standards of Section 10-281.
  6. Exit drains shall be sloped to drain water back to drainage gates in the wash building.
- F. Motels and hotels, subject to the provisions of Section 10-252 and the following conditions:
1. The entrance and exit driveways to and from any such use are located at least 100 feet from the intersection of any two (2) streets.
  2. All lighting or illuminated display shall not reflect onto any adjacent residential zone.
  3. The site design shall give consideration to the proximity of existing places of congregation of children and their relationship to safety from traffic hazards and sanitation.
- G. New and used car sales, subject to the following conditions:
1. The use shall not take direct access off of any peripheral public street unless it is determined by the Planning Commission that such direct access will not be harmful the traffic pattern of the public street or to adjoining land uses. Where direct access is necessary, joint access with adjacent land uses should be provided, if feasible.
  2. Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall be hard-surfaced with concrete or bituminous material, and shall be graded and drained so as to effectively dispose of or retain surface waters. Grading, surfacing, and drainage plans shall be subject to review and approval by the Director of Public Works and/or the City Engineer.

3. The nearest edge of any driveway serving an outdoor vehicle sales area shall be located at least sixty (60) feet from any street or road intersection (as measured from the right-of-way line).
4. All servicing of vehicles shall be subject to the following requirements:
  - a. Service activities shall be clearly incidental to the vehicle sales operation.
  - b. Vehicle service activities shall occur within a completely enclosed building.
  - c. Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored within a completely enclosed building.
  - d. Buildings containing the service operations shall be located a minimum of 50 feet from any abutting residential property line.
  - e. There shall be no external evidence of the service operations, in the form of dust, odors, or noise, beyond the interior of the service building.
  - f. Buildings shall be oriented so that open bays do not face onto adjacent streets unless screened by an adjoining lot, building or obscuring wall complying with the standards of Section 10-281.
- H. Sexually-oriented business (adult-regulated business), subject to the provisions of Section 10-261.
- I. Flea Market, subject to the following conditions:
  1. A flea market shall be located a minimum of the following specified distance from a residential district, a place of worship, nursery school, state licensed halfway house or group home, public library, public park or playground, or public or private school serving persons aged 17 or under:

<b>Area of Flea Market (Gross Leasable Area in square feet)</b>	<b>Minimum Distance from Residential District and Uses Specified Above</b>
1,000 or less	100
1,001 to 2,000	120
2,001 to 3,000	130
3,001 to 4,000	140
4,001 to 5,000	150
in excess of 5,000	150 plus 10 for each 1,000 sq. ft. in excess of 5,000, up to a maximum of 200

2. The following shall not be stored or displayed on-site: automobiles, trucks, motorcycles, recreational vehicles, trailers, power boats, power-driven lawn and farm equipment, or items of similar nature.
3. If conducted wholly or in part outdoors, the flea market shall comply with the requirements of Section 10-254, Open Air Businesses.

**Section 10-664 District RS-1 - Uses Requiring Site Plan Review.**

For all uses permitted in the RS-1 District, a site plan shall be submitted in accordance with Sections 10-760 through 10-764.

**Section 10-665 District RS-1 - Area, Height, Bulk and Placement.**

In accordance with Section 10-601, "Schedule of Regulations".

## **District O-1 - Organizational District**

### **Section 10-670 District O-1 - Statement of Purpose.**

The O-1 District is intended to provide suitable areas for buildings which sustain large gatherings of people. Although used sporadically, these uses generate large volumes of traffic and demand large areas for off-street parking. The intent of this district is to permit such uses where they are not injurious to the surrounding neighborhood.

### **Section 10-671 District O-1 - Permitted Uses.**

- A. Place of Worship (subject to the provisions of Section 10-246), hospital (subject to the provisions of Section 10-248), public school, public library, private school and educational institution.
- B. Lodge, fraternal organizational and veterans' organization.
- C. State licensed nursing home, hospice, convalescent home, rest home, assisted living facility, orphanage and foster family group home, except those for the care of contagious, mental, drug or liquor addict cases, subject to the provisions of Section 10-249.
- D. Hospice, subject to the provisions of Section 10-249.
- E. Funeral homes or mortuary, subject to the provisions of Section 10-251.
- F. Group Day Care home or child care center, subject to the provisions of Section 10-247.
- G. Off-street parking in accordance with the requirements of Article IV.

### **Section 10-672 District O-1 - Accessory Uses.**

Accessory buildings shall comply with Section 10-225, Accessory Buildings.

### **Section 10-673 District O-1 - Special Land Uses.**

Reserved

### **Section 10-674 District O-1 - Uses Requiring Site Plan Review.**

For all uses permitted in the O-1, Organizational District, a site plan shall be submitted in accordance with Sections 10-760 through 10-764.

### **Section 10-675 District O-1 - Area, Height, Bulk and Placement.**

In accordance with Section 10-601, "Schedule of Regulations".

## **ARTICLE VII - ZONING ADMINISTRATION**

### **Section 10-700 General.**

### **Section 10-701 Records.**

A record of all certificates of occupancy shall be kept in the office of the Building Inspector. Copies of such certificates of occupancy shall be furnished upon request to a person having a proprietary or tenancy interest in the property involved.

### **Section 10-702 Fees.**

Fees for inspections and the issuance of permits or certificates or copies thereof required or issued under the provisions of this Chapter shall be collected by the Building Inspector in advance of the issuance of such permits or certificates.

The amount of such fees shall be established by the City Council, and shall cover the cost of inspection and supervision resulting from the enforcement of this Chapter. The fees shall be deposited in the general fund of the City.

No fees shall be charged for an original certificate of occupancy applied for coincident with the application for a building permit. For all other certificates or for copies of an original certificates, there shall be a charge of one dollar each.

### **Section 10-710 Zoning Compliance Permit.**

It shall be unlawful for any person to commence excavation for or construction of any building structure or moving of an existing building without first obtaining a zoning compliance permit and building permit from the Building Department. No permit shall be issued for the construction, alteration or remodeling of any building or structure until an application has been submitted in accordance with the provisions of this Chapter, showing that the construction proposed is in compliance with the provisions of this Chapter and with the Building Code.

"Alterations" or "repair" of an existing building or structure shall include any changes in structural members, stairways, basic construction type, kind or class of occupancy, light or ventilation, means of egress and ingress or any other changes affecting or regulated by the Building Code, the housing law of the State, the City's Housing Code or this Chapter, except for minor repairs or changes not involving any of such changes.

No plumbing, electrical, drainage or other permit shall be issued until the Building Inspector has determined that the plans and designated use indicate that the structure and premises, if constructed as planned and proposed, will conform to the provisions of this Chapter.

A zoning compliance permit shall be obtained for the new use of land, whether presently vacant or a change in land use is proposed.

A zoning compliance permit shall also be obtained for any change in use of an existing building or structure to a different class or type of use.

### **Section 10-711 Application Requirements for Zoning Compliance Permit.**

The Building Inspector shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Chapter. It shall be unlawful for the Building Inspector to approve any plans or issue a zoning compliance permit or a building permit for any excavation or construction until he has inspected such plans in detail and found them in conformity with this Chapter. To this end, the Building Inspector shall require that every application for a zoning compliance permit for excavation, construction, moving, alteration or change in type of use or the type of occupancy be accompanied by written statements and plans or plats drawn to scale, in duplicate, showing the following in sufficient detail to enable the Building Inspector to ascertain whether the proposed work or use is in conformance with this Chapter:

- A. The actual shape, location and dimensions of the lot.
- B. The shape, size and location of all buildings or other structures to be erected, altered or moved and of any buildings or other structures already on the lot.
- C. The existing and intended use of the lot and all such structures upon it including in the residential area, the number of dwelling units the building is intended to accommodate.
- D. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Chapter are being observed.

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

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

#### **Section 10-720 Certificate of Occupancy.**

It shall be unlawful to use or permit the use of any land, building or structure for which a building permit is required or to use or permit to be used any building or structure hereafter altered, extended, erected, repaired or moved until the Building Inspector shall have issued a certificate of occupancy as required by this Chapter have been complied with.

The certificate of occupancy as required for new construction or of renovations to existing buildings and structures in the Building Code shall also constitute certificates of occupancy as required by this Chapter.

Certificates of occupancy shall be applied for in writing to the Building Inspector on forms provided by the Building Inspector.

They shall be issued within 10 days after the receipt of such application if it is found that the building or structure or part thereof or the use of land is in accordance with the provisions of this Chapter and the Building Code. If such certificate is refused for cause, the applicant therefore shall be notified of such refusal and the cause within the 10 day period. A record of all such refusals shall be kept on file in the Building Inspector's Office.



Certificates of occupancy shall be issued for change in use of existing buildings, structures or parts thereof or existing uses of land if after inspection it is found that such buildings, structures or parts thereof or such uses of land are in conformity with the provisions of this Chapter.

**Section 10-730 Temporary Certificate of Occupancy.**

Temporary certificates of occupancy may be issued for a part of a building or structure prior to occupation of the entire building or structure; provided, that such temporary certificate of occupancy shall not remain in force for more than 30 days or more than five (5) days after the building or structure is fully completed and ready for occupancy. Such temporarily approved portions of the building or structure shall be in conformity with the provisions of this Chapter.

**Section 10-740 Performance Guarantees.**

Where in this Chapter there is delegated to the City Council, Zoning Board of Appeals or the City Planning Commission the function of establishing certain physical site improvements as a contingency to securing a zoning amendment, special approval, or variance, the City Council, Zoning Board of Appeals or the City Planning Commission may, to insure strict compliance with any regulation contained or required as a condition of the issuance of a permit, require the permittee to furnish a cash deposit, certified check, irrevocable bank letter of credit, or surety bond to be deposited with the City Clerk in an amount determined by the City Council, Zoning Board of Appeals or the City Planning Commission to be reasonably necessary to insure compliance hereunder; provided, however, that in fixing the amount of such cash deposit, certified check, irrevocable bank letter of credit, or surety bond the City Council, Zoning Board of Appeals or the City Planning Commission shall take into account the size and scope of the proposed improvement project, current prevailing cost of rehabilitating the premises upon default of the operator, estimated expenses including legal fees to compel operator to comply by court decree, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The City may not require the deposit of the performance guarantee before the date on which the City is prepared to issue the permit. The city shall establish procedures under which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses. This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to Act No. 288 of the Public Acts of 1967 as amended, being Sections 560.101 to 560.293 of the Michigan Compiled Laws." (Amended, Ord. 295)

**Section 10-750 Lot Splits.**

- A. The developer or petitioner shall submit to the City Clerk:
  - 1. Sixteen (16) copies of application and drawing for lot split at least 15 days prior to the next regular or special Planning Commission meeting.
  - 2. The drawing and legal description of the proposed lot split shall be prepared by a registered civil engineer or surveyor and drawn to a reasonable and legible scale.
  - 3. The lot split drawing shall contain the following information:

- a. Names and addresses of owner, subdivider or petitioner, engineer or surveyor.
  - b. Date, north arrow and scale, written and graphic.
  - c. Names of abutting subdivisions and names and addresses of the owners of the abutting property.
  - d. Street names, right-of-way and roadway widths of all existing and proposed streets within and adjacent to the proposed lot split.
  - e. Proposed and existing storm and sanitary sewers and water mains including location and size.
  - f. All existing structures and other physical features which would influence the layout and design of the lot split and distances from existing structures to lot lines.
  - g. Location, width and purpose of easements.
  - h. Lot lines and lot numbers.
- B. The Planning Commission shall transmit a copy of the proposed lot split to the City Engineer, Department of Public Works, Building Inspector and the City Assessor for review and recommendation.
- C. The Planning Commission shall review the proposed lot split for conformance with all ordinances, administrative rules and regulations, the Master Plan for the City, and State law, and shall prepare recommendations to be submitted to the City Council.
- D. On receipt of the recommendation of the Planning Commission, the City Council shall give consideration of the proposed lot split.

If the City Council approves the lot split, it shall adopt a resolution effectuating the lot split, and shall transmit the resolution to the City Clerk for recording.

**Section 10-760 Site Plan Review - Intent.**

The purpose of site plan and architectural review is to determine compliance with the provisions set forth herein and to promote the orderly development of the City, the stability of land values and investments and the general welfare, and to help prevent the impairment or depreciation of land values and development by the erection of structures or additions or alterations thereto without attention to siting and appearance. Prior to the erection of any building or structure, or redevelopment, in any zoning district in the City and any land use requiring special approval or any planned high rise multi-purpose building or planned multiple project, other than single-family detached residences and accessory buildings, structures and uses thereto, site plan and architectural review is required.

**Section 10-761 Required Site Plan Review.**

### **Section 10-761.1 Uses Requiring Site Plan Review.**

The development of any new use, the construction of any new structures, any change of an existing use of land or site, and all other building or development activities shall require site plan approval pursuant to this Article. For example, site plan review shall be required for, but not limited to, the following:

- A. Development of any non-single family use or building in the R-1 and R-2 Districts.
- B. Any residential development, except construction or expansion of one single-family or two-family dwelling unit on an individual lot or parcel in the R-1 and R-2 Districts.
- C. Development of any nonresidential use or building.
- D. The erection, relocation, conversion or structural alteration to any non single-family or two-family building, structure or site which results in additional floor space.
- E. Any development which would establish more than one (1) principal use on a single lot.
- F. Special Land Uses in all zoning districts.
- G. Any use listed under "Uses Requiring Site Plan Review" for any zoning district in Article VI.
- H. Cellular phone towers.
- I. Essential public service buildings and storage areas.
- J. Any change in the use of land or a building to a different class or type or to a more intensive use, as determined by the Building Inspector, that may involve significant changes to features such as building appearance, parking needs, traffic flow, traffic volumes, change in access, addition of deceleration lane, buffering needs, hours of operation, noise, effluent discharge, drainage and similar impacts. Any significant change adjacent to, or across the street from a Single-Family Residential District shall require site plan review.
- K. A change in use on a site which does not conform to the site design standards of this Chapter.

### **Section 10-761.2 Projects Eligible for Sketch Plan Review (Administrative Approval).**

A sketch plan, rather than a complete site plan package, may be submitted for minor modifications to a legally existing and conforming use and building which is permitted in the zoning district (i.e. Special Land Uses are not eligible) including alterations to a building or site that do not result in expansion or substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demand for public infrastructure or services, significant environmental impacts or increased potential for hazards; including the following uses and situations:

- A. Group day care homes.

- B. Home occupations.
- C. Temporary uses, sales and seasonal events.
- D. An increase in the floor area on the site by up to 1,000 square feet or five (5) percent of the existing floor area, whichever is less, with no required increase in parking area. Administrative approval is not permitted if the cumulative total of the proposed expansion and any expansion within the last five (5) years, as determined by the Building Inspector exceeds this amount.
- E. An existing building and site that are to be re-occupied by a use permitted in the subject zoning district wherein the new use will not require any significant changes in the existing site facilities such as parking, landscaping, lighting, signs, bikepaths or sidewalks.
- F. Improvements to outdoor recreational uses and parks.
- G. Expansion, replanting or alterations of landscaping areas consistent with the other requirements of this Ordinance.
- H. Improvements or installation of walls, fences, lighting or curbing consistent with the other requirements of this Ordinance.
- I. Alterations to the off-street parking layout or installation of pavement or curbing improvements provided the total number of spaces shall remain constant, and the construction plans and lot construction are approved by the City Engineer.
- J. Relocation of a waste receptacle to a more inconspicuous location or installation of screening around the waste receptacle.
- K. Changes to the facade or architectural features (an elevation plan describing changes and construction materials is required).
- L. Construction or relocation of a permitted accessory building of less than 100 square feet.
- M. Approved changes to utility systems.
- N. Grading, excavation, filling, soil removal, creation of ponds or clearing of trees.
- O. A change in use in a nonconforming use building or site to a more conforming situation.
- P. Modifications to upgrade a building to improve barrier free design, or to comply with the Americans with Disabilities Act or other federal, state or county regulations.

**Section 10-761.3 Exceptions to Site Plan Review.**

Site plan review shall not be required for the following:

- A. Construction or erection of permitted accessory buildings and structures accessory to a single- or two- family dwelling unit.
- B. Construction or erection of permitted accessory buildings and structures less than 100

square feet in area accessory to a multiple family, commercial, office, essential service or municipal use.

- C. Grading, excavation, filling, soil removal, creation of ponds or clearing of trees within an area up to 100 square feet, provided such activity is normally and customarily incidental to single- family uses on the site.
- D. Permitted state licensed residential facilities which provide resident service for six (6) or fewer persons, such as family day care homes, adult foster care family home, foster family homes, foster family group homes, adult care residential facility, and adult day care facility, subject to the regulations of Section 206 of Michigan Public Act 110 of 2006, as amended.
- E. Keeping of animals, except kennels.
- F. Internal construction or change in the floor plan that does not increase gross floor area, increase the intensity of use or affect parking requirements on a site which meets all site design standards of the Ordinance.
- G. Repairing or curbing of parking lots.
- H. Construction or erection of signs, retaining walls, fences, waste receptacles, sidewalks, antennas, lights, poles, cooling/heating or other mechanical equipment, telephone booths, newspaper boxes, landscaping and similar structures which conform to other City standards.

#### **Section 10-761.4 Waiver of Site Plan Review Requirements**

The site plan review requirements of Section 10-761.1 may be waived by the Building Department, with the concurrence of the City Manager, for minor modifications made or proposed to be made to uses normally requiring site plan review.

“Minor modifications” shall include such alterations as:

- A. door or window replacements or substitutions, unless such would completely alter the building’s use,
- B. installations of facades, awnings, shutters or similar features,
- C. additions consisting of less than five (5) percent of the total square footage or 1,000 square feet, whichever is less, or
- D. other similar minor modifications to the building.

#### **Section 10-762 Site Plan Application and Review Requirements.**

The detailed site plan presented shall contain all information required in this Chapter. All site plans shall be accompanied by a completed application form and required fee established by resolution of the City Council. All site plan submissions shall comply with the following:

- A. Sixteen (16) copies of the site plan, including all items required together therewith, shall

be submitted to the Building Inspector, not less than 15 days prior to the next regular or special City Planning Commission meeting, at a scale not less than one (1) inch equals 50 feet. The City Planning Commission may prepare forms and require the use of such forms in site plan preparation.

- B. The following information shall accompany all plans submitted for review.
1. A legal description of the property under consideration
  2. A map indicating the gross land area of the development, the present zoning classification thereof, and the zoning classification and land use of the area surrounding the proposed development, including the location of structures and other improvements.
  3. A fully dimensioned map of the land showing existing topographic information at a contour interval of two (2) feet or less, if requested by the Building Inspector.
  4. A vicinity map showing the location of the area in relation to surrounding properties, streets, freeways, schools, school sites, and other significant features of the City where appropriate.
  5. A general development plan with at least the following details shown to scale and dimensioned:
    - a. Location of each existing and each proposed structure in the development area, the use or uses to be contained therein, the number of stories, gross building areas, distances between structures and lot lines, setback lines, and approximate location of vehicular ingress, egress and loading points.
    - b. All streets driveways, easements, service aisles and parking areas, including general layout and design of parking lot spaces.
    - c. All pedestrian walks, malls and open areas for parks, recreation and light and air to be dedicated to the public or to be retained by the developer, and manager or an acceptable property owners association.
    - d. Location and height of all walls, fences and screen planting, including a general plan for the landscaping of the development and the method by which landscaping is to be accomplished and be maintained together with a brief narrative description of the landscaping concept. Existing trees shall be preserved wherever possible.
    - e. Types of surfacing, such as paving, turfing or gravel to be used at the various locations.
    - f. A grading plan of the area, including necessary data for a grading permit relating to grading and soil erosion control.
    - g. Existing and proposed utilities.
    - h. Any new detached building or structure. A structure also is interpreted to

include freestanding towers, smoke stacks, radio antennae, billboards, or any other structure having permanent footings.

- i. Any addition to an existing building or structure which increases the floor space, cubical content, building height or bulk.
  - j. Any structural alterations in a building or structure which change the exterior appearance of said building or structure (e.g., relocation of doors, windows; change of roof line or style; reconstruction of elevation(s) such as bricking over existing facade.
  - k. New or expanded off-street vehicular parking and loading spaces.
  - l. Substantial change in curb cut or locations serving site.
  - m. Change in location of principal freestanding signs, lighting standards, etc.
6. Plans and elevations of one or more structures indicating proposed architecture and type and color or exterior materials to be used.
  7. Proposed protective covenants if property is to be subdivided or if requested by Building Inspector.
  8. Such other information as may be required by the City to assist in the consideration of the proposed development.
- C. In order that buildings, open space and landscaping will be in harmony with other structures and improvements in the area, and to assure that no undesirable health, safety, noise and traffic conditions will result from the development, the City Planning Commission shall determine whether the site plan meets the following criteria, unless the Planning Commission determines that one or more of such criteria are inapplicable:
1. The building design should be in conformance with established aesthetic appearance within the City.
  2. The vehicular transportation system shall provide for circulation throughout the site and for efficient ingress and egress to all parts of the site by fire and safety equipment.
  3. Pedestrian walkways shall be provided as deemed necessary by the City Planning Commission for separating pedestrian and vehicular traffic.
  4. Recreation and open space areas shall be provided in all multiple-family residential developments.
  5. The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, yard space, density and all other requirements as set forth in Section 10-601, Schedule of Regulations.
  6. The requirements for greenbelt, fencing, walls and other protective barriers shall be complied with as provided in this title.

7. The site plan shall provide for adequate storage space for the use therein, including, where necessary, storage space for recreational vehicles.
  8. The site plan shall comply with all requirements of the applicable zoning district, unless otherwise provided in this Chapter.
- D. The site plan shall be reviewed by the City Planning Commission and shall be approved, disapproved or approved with conditions the City Planning Commission feels should be imposed. If the City Planning Commission finds a site plan not in conformance with the provisions set forth in this Section, it may, at its discretion, return the site plan to the applicant with a written statement of the modifications necessary to obtain approval.
  - E. Following approval of the site plan by the City Planning Commission, the Building Inspector shall issue a building permit upon submission of proper construction plans, and shall insure that the development is undertaken and completed in accordance with the approved plans. For any approved site plan building permits must be obtained encompassing a minimum of 25 percent of the gross floor area shown on the site plan within six (6) months of the date of site plan approval or the site plan shall be deemed null and void without any further actions by the City.
  - F. The building permit may be revoked by the Building Inspector in any case where the conditions of the site plan as approved by the City Planning Commission have not been complied with.
  - G. The site plan, if approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan unless a change or addition conforming to this section receives the mutual agreement of the landowner and the City Planning Commission. Incidental and minor variations of the approved site plan with written approval of the Building Inspector shall not invalidate prior site plan approval.
  - H. In instances where specific requirements of this Chapter are not satisfied on the site plan, requests for variance(s) may be initiated by the petitioner to the Zoning Board of Appeals, subject to City Planning Commission recommendation on the proposed variance(s).

#### **Section 10-763 Requirements for a Sketch Plan.**

A "sketch plan" submittal shall include at least the following:

- A. Application form and review fee.
- B. Name, address and telephone number of the applicant and the person(s) responsible for preparing the plot plan.
- C. North arrow.
- D. Legal description of the property.
- E. The "sketch plan" shall be drawn at an engineer's scale. Any building expansion over 500 square feet within a five (5) year period involving public safety issues, as determined



by the Building Inspector, shall require a professional seal of an architect, landscape architect or engineer.

- F. Property lines and dimensions.
- G. Existing and proposed buildings and structures with dimensions, setbacks and details or elevations where appropriate.
- H. Existing and proposed parking including number of spaces provided and the number of spaces needed according to Article IV. If changes are made to the parking area, a detail of pavement, stormwater runoff calculations and description of detention methods shall be provided.
- I. Details on any new driveways or changes to existing driveways (radii, throat width, slope, boulevard design, etc).
- J. Location of existing signs and details on any proposed changes or new signs.
- K. General illustration of existing landscaping; location, size and species of any new landscaping.
- L. Layout of any proposed changes to utilities.
- M. Description of any proposed changes to drainage.
- N. Floor plan of any new building area or building elevations, if applicable.
- O. Any other items requested by City staff, Planning Commission, or Planning Consultant.

**Section 10-763.1 Sketch Plan Application and Review Requirements Procedure.**

The process for administrative approval shall involve submittal of a sketch plan and required application form and fee to the Building Inspector. The Building Inspector shall review the sketch plan to ensure compliance with standards of this Chapter and make a report of administrative approvals to the Planning Commission.

The Building Inspector retains the option to require a complete site plan for review by the Planning Commission, particularly for sites which do not comply with previously approved site plans, sites with parking deficiencies, sites abutting residential districts or sites experiencing problems with drainage, traffic, noise, aesthetics or other general health and safety issues. If a full site plan is required, the Building Inspector shall inform the applicant to submit a set of plans in accordance with Section 10-262 of this Chapter within 14 days of receipt of the application.

**Section 10-764 Criteria of Site Plan Review.**

All site plans and sketch plans shall be reviewed for compliance with all of the criteria below:

- A. The proposed use will not be injurious to the surrounding neighborhood.
- B. The location of buildings, outside storage receptacles, parking areas, fences or obscuring walls, and utility areas will minimize adverse effects of the proposed use for

the occupants of that property and the tenants, owners, and occupants of surrounding properties.

- C. There is a proper relationship between major thoroughfares and proposed service drives, driveways, and parking areas to encourage the safety and convenience of pedestrian and vehicular traffic. The site plan includes the minimum number of driveways required to provide reasonable access. Driveways are spaced as far apart from intersections and other driveways as practical to reduce accident and congestion potential. Sharing with adjacent uses is encouraged. The Planning Commission may require a traffic impact study.
- D. The site plan provides for proper development of roads, easements, and public utilities and protects the general health, safety, and welfare of the City and its residents.
- E. Building architecture, materials, roof line, colors, windows and similar elements shall be consistent with the majority of other buildings in the City, as determined by the Planning Commission (or City Council for Special Land Uses). Brick construction or brick trim, varying facade depths and peaked roofs, is encouraged. Stark white or bold colors and reflective glass are discouraged. The intent of this standard is to provide a harmonious, unified community to help create a sense of place and contribute to the image and quality of life in the City.
- F. The proposed site plan complies with all City codes and ordinances.

**Section 10-770 Special Land Uses.**

The City Council, as herein created, shall have the following specific powers and duties concerning special approvals.

**A. Purpose**

In hearing and deciding upon special approvals, the City Council shall base its actions on the theory that the development and execution of a comprehensive zoning ordinance is founded upon the division of the City into districts within which districts the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are variations in the nature of special uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Such special uses fall into two categories:

- 1. Uses either municipally operated or operated by publicly regulated utilities or uses traditionally affected with a public interest; and,
- 2. Uses entirely private in character but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

**B. Authorization**

The special approval of specific land uses and activities, as required under Sections 10-613, 10-623, 10-633, 10-643, 10-653, 10-663, 10-673, and 10-683 (as appropriate)

may be authorized by the City Council provided that no application for special approval shall be acted upon by the City Council until after (1) a written recommendation is prepared and filed with the City Council by the City Planning Commission, which report shall become a part of the record, and (2) a public hearing is held by the Council.

**C. Application**

An application for special approval for a land use shall be filed and processed in the manner prescribed for application for site plan review in Sections 10-760 through 10-764 and shall be in such form and accompanied by such information as shall be established from time to time by the City Council. Any application for special approval shall be filed simultaneously with an application for site plan review for the subject use.

**D. Notice of Request for Special Approval**

Notice of a request for special approval of a land use shall be in the form of one (1) notice published in a newspaper of general circulation in the City, plus a notice sent by mail or by personal delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within 300 feet of the boundary of the property in questions, and to the occupants of all structures within 300 feet, except that the notice shall be given not less than 15 days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

1. Describe the nature of the special land use request.
2. Indicate the property which is the subject of the special land use request, including the street address(es) involved in the request.
3. State when and where the special land use request will be considered.
4. Indicate when and where written comments will be received concerning the request.
5. Indicate that a public hearing on the special land use request may be requested by a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special use.

**E. Hearing**

At the initiative of the City Council, or upon the request of the applicant for special approval of a land use, or a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special land use, a public hearing with notification as required for a notice of a request for special land use

approval as provided in subsection (D) of this section shall be held before a decision on the special approval request which is based on discretionary grounds. If the applicant or the City Council requests a public hearing, only notification of the public hearing need be made. A decision on a special approval request which is based on discretionary grounds shall not be made unless notification of the request for special approval, or notification of a public hearing on a special approval request is given as required by this section.

**F. Standards**

No special approval shall be granted by the City Council unless the special use:

1. Will promote the use of land in a socially and economically desirable manner for those persons who will use the proposed land use or activity; for those land-owners and residents who are adjacent; and for the City as a whole.
2. Is necessary for the public convenience at the location.
3. Is compatible with adjacent uses of land.
4. Is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.
5. Can be adequately served by public services and facilities without diminishing or adversely effecting public services and facilities to existing land uses in the area.
6. Will not cause injury to the value of other property in the neighborhood in which it is to be located.
7. Will protect the natural environment and help conserve natural resources and energy.
8. Is within the provisions of uses requiring special approval as set forth in the various zoning districts herein, is in harmony with the purposes and conforms to the applicable regulations of the zoning district in which it is to be located, and meets applicable site design standards for each use specified in Sections 10-241 through 10-259.
9. Is related to the valid exercise of the City's police power and purposes which are affected by the proposed use or activity.

**G. Approval**

City Council may deny, approve, or approve with conditions, request for special approval of a land use. The decision on a special approval shall be incorporated in a statement of conclusions relative to the specific land use under consideration. The decision shall specify the basis for the decision, and any conditions imposed. Any approval given by the City Council under which premises are not used or work is not started within six (6) months or when such use or work has been abandoned for a period of six (6) months, shall lapse and cease to be in effect.

**H. Record**

The conditions imposed with respect to the special approval of a land use or activity shall be recorded in the record of the special approval action and shall remain unchanged except upon the mutual consent of the City Council and the landowner. The City Council shall maintain a record of charges granted in conditions. (Amended, Ord. 295)

**Section 10-780 Amendments to the Zoning Ordinance.**

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

- A. Any applicant desiring to have any change made in this Chapter shall submit a petition to the City Clerk who shall officially refer same to the City Planning Commission for study and the statutory public hearing. Also, applicant shall deposit a fee as established by the City Council with the City Treasurer at the time that the petition is filed to cover the publication and other miscellaneous costs for said proposed change. If applicant is not the property owner, the property owner shall also endorse the petition.
  
- B. At least one (1) public hearing shall be held by the City Planning Commission before an amendment becomes effective. A notice of the time, place and purpose of a public hearing shall be published in a newspaper having circulation in the City and be sent by mail or personal delivery to the property owner involved in the request; property owners within 300 feet of the property; and all occupants of structures within 300 feet of the property regardless of the zoning jurisdiction not less than 15 days prior to the date of such hearing. The notice shall also describe the nature of the request, the street address(es) involved in the request, and when and where written comments will be received.

If the requested rezoning involves 11 or more adjacent properties, all the above listed notification requirements are required except that notification by mail or personal delivery to property owners within 300 feet of the property; and all occupants of structures within 300 feet of the property regardless of the zoning jurisdiction is not required. And no individual addresses of properties are required to be listed.

- C. After the public hearing, the City Planning Commission shall make a final report to the City Council. A summary of the comments submitted at the public hearing shall be transmitted with the report of the Commission to the City Council. The City Council may hold additional public hearings if it considers it necessary, or as may be required by charter.
  
- D. The City Council may then adopt the amendatory ordinance after receipt of the City Planning Commission's report, or refer the ordinance and maps again to the City

Planning Commission for a further study and report. (Amended, Ord. No. 295)

- E. Upon presentation of a protest petition, an amendment to this Chapter which is the object of the petition shall be passed only by a two-third (2/3) vote of the City Council, unless a larger vote, but not to exceed three-quarter (3/4) vote, is required by ordinance or charter. The protest petition shall be presented to the City Council before final legislative action on the amendment, and shall be signed by one (1) of the following:
  - 1. The owners of at least 20 percent of the area of land included in the proposed change.
  - 2. The owners of a least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.
  - 3. For purposes of subsection 5, publicly owned land shall be excluded in calculating the 20 percent land area requirement.
- F. Following adoption of an amendment to this Chapter by the City Council, one (1) notice of adoption shall be published in a newspaper of general circulation in the City within 15 days after adoption. The notice shall include:
  - 1. Either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
  - 2. The effective date of the amendment.
  - 3. The place and time where a copy of the amendment may be purchased or inspected."

**Section 10-781 Amendments Required to Conform to Court Decree.**

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

**Section 10-782 Criteria for Amendment of the Official Zoning Map.**

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

- A. Consistency with the goals, policies and future land use map of the Harper Woods Master Plan. If conditions upon which the Master Plan was developed (such as market factors, demographics, infrastructure, traffic and environmental issues) have changed significantly since the Master Plan was adopted, as determined by the City, the Planning Commission and Council shall consider the consistency with recent development trends in the area.
- B. Compatibility of the site's physical, geological, hydrological and other environmental features with the host of uses permitted in the proposed zoning district.

- C. Evidence the applicant cannot receive a reasonable return on investment through developing the property with at least one (1) of the uses permitted under the current zoning.
- D. The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
- E. The capacity of the City's infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare".
- F. The apparent demand for the types of uses permitted in the requested zoning district in the Harper Woods area in relation to the amount of land currently zoned and available to accommodate the demand.
- G. The request has not previously been submitted within the past one (1) year, unless conditions have changed or new information has been provided.
- H. Other factors deemed appropriate by the Planning Commission and City Council.

**Section 10-783 Criteria for Amendment to the Zoning Ordinance Text.**

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

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

**Section 10-784 Restrictions on Resubmittal of a Rezoning Request.**

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





## **ARTICLE VIII -ZONING BOARD OF APPEALS**

### **Section 10-800 Creation of Zoning Board of Appeals.**

There is hereby established a Zoning Board of Appeals, which shall perform its duties and exercise its powers as provided by law in such a way that the objectives of this Chapter shall be observed, public safety secured and substantial justice done.

### **Section 10-810 Composition, Term of Office, Removal, and Compensation of Members.**

The Zoning Board of Appeals shall consist of seven (7) members appointed by the City Council. Appointments shall be for a period of one, two and three years so as nearly as may be possible to provide for the appointment of an equal number each year. Thereafter each member shall be appointed and hold office for the full three year term. The members shall be citizens of the United States and residents of the City. One regular member shall be a member of the Planning Commission. Members may be removed for cause by the Council only after consideration of written charges and a public hearing. Any vacancies on the Board shall be filled by the Council for the remainder of the unexpired term. The compensation, if any, of the members of the Board shall be fixed by the Council.

### **Section 10-820 Officer, Meetings, Quorum, Records, Power of Subpoena and Production.**

The Zoning Board of Appeals shall annually elect its own chairperson, vice-chairperson and secretary. All meetings shall be open to the public. Regular meetings shall be held at least once a month and special meetings shall be held at the call of the Chairman, as the Board may determine or upon written request of three members provided twenty-four hours notice has been given to each member before the time set for such meetings. Four members of the Board shall constitute a quorum for the conduct of its business. Records shall be kept of all proceedings before the Board and minutes shall be kept of its official acts. The Board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

### **Section 10-830 Procedure to Notify Interest Parties.**

The Zoning Board of Appeals shall adopt general rules and regulations relating to its procedures. A notice of the time, place and purpose of a hearing shall be published in a newspaper having general circulation in the City and shall be sent by mail or personal delivery to the person requesting the interpretation, variance, or appeal of an administrative decision not less than 15 days before the public hearing. If the request involves a specific parcel or parcels, then written notice of the time, place and purpose for the hearing shall be sent by mail to all property owners within 300 feet of the property; and all occupants of structures within 300 feet of the property regardless of the zoning jurisdiction not less than 15 days prior to the date of such hearing. The notice shall also describe the nature of the request, the street address(es) involved in the request, and when and where written comments will be received.

### **Section 10-840 Powers of Board: Interpretations and Variances.**

The Zoning Board of Appeals may, in specific cases and subject to appropriate conditions and safeguards, determine and vary the application of the regulations herein established in harmony with their general purpose and intent as follows:

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

- H. Where there are practical difficulties or unnecessary hardships in complying strictly with this Chapter, the Zoning Board of Appeals may in specific cases, adjust any such condition in harmony with the general purpose and intent of this Chapter so that the public health, safety, and general welfare may be secured and substantial justice done. The Zoning Board of Appeals is specifically not authorized to grant use variances.

**Section 10-841 Variances - Standards.**

In consideration of all appeals for variances the Zoning Board of Appeals shall review each case individually as to its applicability to each of the following standards so that the proposed variance:

- A. Will be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and the applicable regulations of the zoning district in which it is to be located.
- B. Will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child-vehicle contacts in residential districts.
- C. Will be designed as to the location, size, intensity, site layout and periods of operation of any such proposed use to eliminate any possible nuisance emanating therefrom which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.
- D. Will be such that the proposed location, height of buildings or structures, location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.
- E. Will relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience of access by prospective patrons, continuity of development and need for particular services and facilities in specific areas of the City.
- F. Is necessary for the public convenience at that location.
- G. Is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.
- H. Will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.

**Section 10-850 Appeals to Board.**

The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of this Chapter. They shall also hear and decide all matters referred to them or

upon which they are required to pass under this Chapter. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant any matter upon which they are required to pass under this Chapter or to effect any variation from this Chapter. Such appeal shall be taken by any person aggrieved or by any officer, department, board or bureau of the City. Such appeal shall be taken within such time as shall be prescribed by the Board by the filing in writing, with the officer from whom the appeal is taken and with the Board of a notice specifying the grounds thereof.

The office from whom the appeal is taken shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. Such order may be granted by the Board or by any competent jurisdiction on notice to the officer from whom the appeal is taken and on due cause shown.

Notice of the hearing shall be as prescribed in Section 10-830. Upon the hearing, any party may appear in person or by agent or by attorney. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, subject to conditions and limitations of this section. To that end the Board shall have all the powers of the officer from whom the appeal is taken. The decision of the Board in those and all other matters heard by it shall be final after five (5) days insofar as it involves discretion of the finding of facts.

Any applicant making an appeal before the Zoning Board of Appeals shall pay a fee to the City Treasurer in the amount established by the City at the time notice of appeal is filed, unless payment of such fee is waived by the general rules adopted by the Board.

#### **Section 10-860 Appeal to Circuit Court.**

- A. The decision of the Zoning Board of Appeals shall be final. However, a person having an interest affected by this title may appeal to the circuit court. An appeal of a decision by the Zoning Board of Appeals must be filed with the circuit court within 30 days after the Zoning Board of Appeals certifies its decision in writing or approves the minutes of its decision. Upon appeal, the court shall review the record and decision of the Zoning Board of Appeals to insure that the decision:
1. Complies with the constitution and laws of the State.
  2. Is based upon proper procedure.
  3. Is supported by competent, material, and substantial evidence on the record.
  4. Represents the reasonable exercise of discretion granted by law to the Zoning Board of Appeals.
- B. If the court finds the record of the Zoning Board of Appeals inadequate to make the review required by this section, or that there is additional evidence which is material and

with good reason was not presented to the Zoning Board of Appeals, the court shall further proceedings before the Zoning Board of Appeals on conditions which the court considers proper. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. The supplementary record and decisions shall be filed with the court.

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



## **ARTICLE IX - INTERPRETATION, VIOLATIONS, VALIDITY AND EFFECTIVE DATE**

### **Section 10-910 Interpretation, Purpose and Conflict.**

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

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

### **Section 10-920 Violations and Penalties.**

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

### **Section 10-930 Validity.**

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

### **Section 10-940 Effective Date.**

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

Introduced and Placed for First Reading: June 3, 2013

Second Reading: July 8, 2013

Enactment: July 28, 2013

Published (Grosse Pointe News): July 18, 2013