

**CITY OF PORTLAND
Ionia County, Michigan**

Council Member Fitzsimmons, supported by Mayor Pro-Tem VanSlambrouck, made a motion to adopt the following ordinance:

ORDINANCE NO. 175VV

**AN ORDINANCE AMENDING SECTION 8-8 OF CHAPTER 42, "ZONING," OF THE
CODE OF ORDINANCES OF THE CITY OF PORTLAND AS IT RELATES TO THE
REGULATION OF FENCES AND WALLS.**

THE CITY OF PORTLAND ORDAINS:

Section 1. Zoning Text Amendment. Section 8-8 of Article VIII, "General Provisions," Division 3, "Site Development Regulations," Chapter 42, "Zoning," of the Code of Ordinances, City of Portland, Michigan, is hereby amended to read in its entirety as follows:

Sec. 8-8. – Fences and Walls.

- (a) No solid fence, wall, or planting screen greater than 30 inches in height as measured from the natural grade, shall be located within the clear vision area, as required in section 8-21.
- (b) Fencing which is essentially open (e.g., wrought iron, chain link, split rail, or picket fence) may be up to 48 inches high in the front yard. Stockade fence and masonry walls shall be limited to 36 inches high in the front yard.
- (c) In non-residential districts, a wall, fence, or yard enclosure may be up to eight feet high in a side or rear yard.
- (d) In residential districts, fences may be up to six feet high in the side or rear yard.
- (e) All fences erected or caused to be erected by individual property owners shall be located on their property.
- (f) No fence, wall, or other barrier shall be placed within a street right-of-way.
- (g) No electrically charged fences are permitted. Barbed wire may be permitted by the planning commission in non-residential districts for security purposes where the nature of the use is such that added security or protection is warranted.
- (h) No fence or wall shall be erected which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which will interfere with access by the first responders.
- (i) All fences and walls shall be maintained in sound structural condition and anchored into the ground. Failure to maintain the fence or wall shall be considered a violation of this ordinance.

- (j) Fences constructed of wood or other material having one finished side shall be erected with that side facing the adjoining street or abutting property.
- (k) Fences and walls shall be constructed of traditional materials customarily used for wall and fence construction such as, but not limited to, pressure-treated wood, high quality vinyl, wrought iron, vinyl coated chain link, split rail, brick, or masonry. Scrap or "recycled" material shall not be used. Recycled garage doors, sheet metal, corrugated metal, wood pallets, siding, file cabinets, tires, plywood, and similar materials are expressly prohibited.
- (l) No fence shall be erected on any lot prior to issuance of a permit from the zoning administrator.

Section 2. Publication and Effective Date. The City Clerk shall cause this Ordinance to be published and recorded as provided in the City Charter and it shall take effect on the date of publication, but not less than ten (10) days after its adoption by the City Council.

Ayes: Fitzsimmons, VanSlambrouck, Johnston, Sheehan, Barnes
Nays: None
Absent: None
Abstain: None

ORDINANCE DECLARED ADOPTED.

James E. Barnes, Mayor

Monique I. Miller, City Clerk

Introduced: October 16, 2023
Adopted: November 6, 2023
Published: November 10, 2023
Effective: November 16, 2023

CERTIFICATION

I certify that this is a true and complete copy of the ordinance adopted at a regular meeting of the City Council of the City of Portland on November 6, 2023.

Dated: November 6, 2023

Monique I. Miller, City Clerk



Zoning

Last Revised
04/24/2023

TABLE OF CONTENTS

Division 1 – Introduction

Article I	Purpose and Scope	
	Section 1-1 Title	1
	Section 1-2 Purpose	1
	Section 1-3 Scope	1
	Section 1-4 Legal Basis	1
	Section 1-5 Effect of ordinance	2
Article II	Definitions	
	Section 2-1 Rules of Construction	3
	Section 2-2 Definitions A-C	3
	Section 2-3 Definitions D-G	5
	Section 2-4 Definitions H-M	8
	Section 2-5 Definitions N-S	11
	Section 2-6 Definitions T-Z	14

Division 2 – Zoning Districts

Article III	Zoning Districts and Map	
	Section 3-1 Establishment of Districts	16
	Section 3-2 Official Zoning Map	16
	Section 3-3 Interpretation of Zoning Boundaries	16
	Section 3-4 Zoning of Vacated Areas	17
	Section 3-5 Zoning of Filled Land; Use of Waters	17
	Section 3-6 Zoning of Annexed Areas	17
	Section 3-7 Split Parcels	17
Article IV	Residential Zoning Districts	
	Section 4-1 Purpose	18
	Section 4-2 Table of Uses	18
	Section 4-3 Dimensional Requirements	20
	Section 4-4 Other Requirements	20
Article V	Business Zoning Districts	
	Section 5-1 Purpose	22
	Section 5-2 Table of Uses	23
	Section 5-3 Dimensional Requirements	26
	Section 5-4 C-1 District Requirements	26
	Section 5-5 O-R District Requirements	27
	Section 5-6 Other Requirements	29
Article VI	Overlay Districts	
	Section 6-1 Purpose	31
	Section 6-2 Applicability	31
	Section 6-3 Table of Uses	32
	Section 6-4 Development Requirements	33
	Section 6-5 Other Requirements	37

Article VII	Planned Unit Development (PUD)	
	Section 7-1 Purpose	39
	Section 7-2 Eligibility Criteria	39
	Section 7-3 Permitted Uses	40
	Section 7-4 Development Requirements	40
	Section 7-5 Review Procedures	43
	Section 7-6 Development Agreement	44
	Section 7-7 Standards of Approval	45
	Section 7-8 Timing	45
	Section 7-9 Revisions or Deviations from Approved PUD	46
	Section 7-10 Existing PUDs	47
	Section 7-11 Appeals and Variances	47

Division 3 – Site Development Regulations

Article VIII	General Provisions	
	Section 8-1 Accessory Buildings and Uses	48
	Section 8-2 Main Building or Principal Use	49
	Section 8-3 Unlawful Buildings and Uses	49
	Section 8-4 Lots and Lot Measurements	49
	Section 8-5 Height Exceptions	50
	Section 8-6 Encroachments into Required Yards	50
	Section 8-7 Home Occupations	51
	Section 8-8 Fences and Walls	53
	Section 8-9 Access to Streets	53
	Section 8-10 Lighting	53
	Section 8-11 Private Swimming Pools	54
	Section 8-12 Regulations Applicable to One-Family Dwellings	54
	Section 8-13 Site Condominiums	55
	Section 8-14 Temporary Buildings, Structures, and Uses	59
	Section 8-15 Dumpsters and Outdoor Trash Containers	61
	Section 8-16 Grading, Excavation, Filling, and Clearing	61
	Section 8-17 Allocation of Lot Area and Depth of Lots	61
	Section 8-18 Marihuana Establishments	62
	Section 8-19 Small Wireless Communication Facilities	62
	Section 8-20 Front Yard Setbacks	64
	Section 8-21 Clear Vision Corner	64
	Section 8-22 Vehicle Repairs in Residential Districts	64
Article IX	Off-Street Parking and Loading	
	Section 9-1 Purpose	65
	Section 9-2 Applicability	65
	Section 9-3 Location of Off-Street Parking	65
	Section 9-4 General Off-Street Parking Requirements	65
	Section 9-5 Design and Construction Requirements	68
	Section 9-6 Schedule of Required Off-Street Parking	69
	Section 9-7 Off-Street Loading Requirements	74

Article X	Landscaping and Buffering	
	Section 10-1 Purpose	75
	Section 10-2 Applicability	75
	Section 10-3 Landscape Plan	75
	Section 10-4 General Landscaping Requirements	76
	Section 10-5 Buffering	77
	Section 10-6 Utility Buildings, Outdoor Equipment, Outdoor Storage, Waste Receptacles	78
Article XI	Private Streets	
	Section 11-1 Purpose	79
	Section 11-2 Frontage and Access	79
	Section 11-3 Design	79
	Section 11-4 Modification of Requirements	80
	Section 11-5 Review and Approval	81
	Section 11-6 Permits	82
	Section 11-7 Inspection/Certificate of Compliance	82
	Section 11-8 Maintenance and Repairs	82
	Section 11-9 Existing Private Streets	83
Article XII	Special Land Use Procedures	
	Section 12-1 Purpose	85
	Section 12-2 Applications	85
	Section 12-3 Review Procedures	85
	Section 12-4 Standards for Approval	85
	Section 12-5 Terms and Conditions of Approval	86
	Section 12-6 Effectiveness of Approval	86
	Section 12-7 Violation of Special Land Use Requirements	86
	Section 12-8 Appeals	87
Article XIII	Special Land Use Requirements	
	Section 13-1 Accessory Dwelling as Part of a Business Use	88
	Section 13-2 Accessory Dwellings	88
	Section 13-3 Adult Foster Care, Small/Large Group Home, Congregate Care Facility	88
	Section 13-4 Airstrips and Landing Fields	88
	Section 13-5 Banquet Hall and/or Conference Center	89
	Section 13-6 Bed and breakfast Establishment	89
	Section 13-7 Bus Passenger Station	89
	Section 13-8 College or University	89
	Section 13-9 Commercial Mini-Storage	90
	Section 13-10 Convalescent or Nursing Home	90
	Section 13-11 Day Care Center	90
	Section 13-12 Day Care Home, Group	91
	Section 13-13 Drive-Through Facility Other than a Restaurant	91
	Section 13-14 Dwelling Units Located on the Ground Floor	91
	Section 13-15 Elementary, Middle, and High School (Private)	91
	Section 13-16 Golf Course or Country Club	91
	Section 13-17 Hospital	92
	Section 13-18 Kennel, Commercial	92
	Section 13-19 Mortuary or Funeral Home	92

Section 13-20	Motor Freight Transpiration/Trucking Terminal	93
Section 13-21	Municipal and Public Service Activities	93
Section 13-22	Open Air Business	93
Section 13-23	Parking, Loading, and Storage for Equipment and Machinery	94
Section 13-24	Pawnshop	94
Section 13-25	Place of Religious Worship	94
Section 13-26	Recreation Facility, Indoor	94
Section 13-27	Recreation Facility, Outdoor	95
Section 13-28	Restaurant with Drive-Through Facility	95
Section 13-29	Retail Building Supplies Equipment Store w/Outdoor Storage	95
Section 13-30	Sexually Oriented Business	95
Section 13-31	Stable, Commercial	96
Section 13-32	Truck Wash	96
Section 13-33	Utility Substation, Transmission Line and Switching Station	97
Section 13-34	Vehicle Repair, Major	97
Section 13-35	Vehicle Sales	98
Section 13-36	Vehicle Service Station	98
Section 13-37	Vehicle Wash Facility	98
Section 13-38	Whole-House Lodging	99
Section 13-39	Wireless Communication Tower w/in District Height Limits	100

Division 4 – Administrative Provisions

Article XIV	Site Plan Review	
	Section 14-1 Purpose	102
	Section 14-2 Uses Requiring Review	102
	Section 14-3 Site Plan Requirements	103
	Section 14-4 Application and Review Procedures	105
	Section 14-5 Conditions of Approval	106
	Section 14-6 Criteria for Approval	106
	Section 14-7 Site Plan Validity	107
	Section 14-8 Amendments to an Approved Site Plan	107
Article XV	Nonconforming Uses, Structures, and Lots	
	Section 15-1 Purpose	109
	Section 15-2 Nonconforming Uses	109
	Section 15-3 Nonconforming Buildings and Structures	110
	Section 15-4 Nonconforming Lots	110
	Section 15-5 Nonconformities Resulting from Right-of-Way Dedication	111
Article XVI	Zoning board of appeals	
	Section 16-1 Creation and Membership	112
	Section 16-2 Meetings and Procedures	112
	Section 16-3 Powers and Duties	112
	Section 16-4 Public Hearings, Voting, and Decisions	114
	Section 16-5 Time Limit on Variances	115
	Section 16-6 Appeals of Board Decisions	115
Article XVII	Amendments	
	Section 17-1 Initiation of Amendments	116

	Section 17-2	Application Procedure	116
	Section 17-3	Rezoning and Text Amendment Guidelines	116
	Section 17-4	Amendment Considerations	117
	Section 17-5	Conditional Rezoning	117
Article XVIII	Administration, Enforcement, and Penalties		
	Section 18-1	Zoning Administrator	118
	Section 18-2	Permits	118
	Section 18-3	Performance Guarantee	119
	Section 18-4	Violations	119
	Section 18-5	Stop Work Order	120
	Section 18-6	Penalties	120
Article XIX	Enactment		
	Section 19-1	Repeal of ordinance	122
	Section 19-2	Severability	122
	Section 19-3	Enactment and Effective Date	122

DIVISION 1 – INTRODUCTION

ARTICLE I. PURPOSE AND SCOPE

Section 1-1. Title.

This ordinance shall be known and may be cited as the "City of Portland Zoning Ordinance."

Section 1-2. Purpose.

Pursuant to the authority granted to the city by the Michigan Zoning Enabling Act, this ordinance is established to regulate the use of land and structures for the following purposes:

- (1) to meet the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land;
- (2) to ensure that use of the land is situated in appropriate locations and relationships;
- (3) to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities;
- (4) to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements; and
- (5) to promote public health, safety, and welfare.

Section 1-3. Scope.

- (a) Except as otherwise provided for in this ordinance, every building and structure erected; every use of property, building, or structure established; every structural alteration or relocation of an existing building or structure; and every enlargement of, or addition to, an existing use, building, or structure occurring after the effective date of the ordinance, shall be subject to this ordinance.
- (b) In its interpretation and application, the provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or general welfare. It is not intended by this ordinance to impair or interfere with any other existing provision of law or ordinance. However, where this ordinance imposes a greater restriction than is required by existing ordinance or by rules, regulations, or permits, the provisions of this ordinance shall control.
- (c) Except as otherwise noted, nothing in this ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or any permissible activities therein. All rights are hereby declared to be subject to such subsequent amendment, change, or modification of this ordinance as may support the stated purposes of section 1-2.
- (d) The right to continue a land use or activity or construct a building or structure which is either permitted by this ordinance or established as a nonconformity shall be vested with the property rather than the owner. No rights shall be terminated for reasons of transfer of ownership. The right to continue a land use or activity shall transfer automatically upon the conveyance of the property unless terminated pursuant to article 15, or unless otherwise provided in the approval of the land use or activity.

Section 1-4. Legal Basis.

This ordinance is enacted pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

Section 1-5. Effect of ordinance.

No land, building, structure, or other premises shall be used, developed, or occupied, and no building or structure shall be constructed, reconstructed, moved, removed, extended, enlarged, or altered except in compliance with the provisions of this ordinance.

ARTICLE II. DEFINITIONS

Section 2-1. Rules of Construction.

The following definitions and rules of construction shall apply when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) The particular shall control the general. For terms used in this ordinance, the use of a general term shall not be taken to be the same as the use of any other specific term. For example, a "truck stop," as used in this ordinance, shall not be interpreted to be the same as a "vehicle service establishment" since each is listed as a separate and distinct use.
- (2) In case of any difference of meaning or implication between the text of this ordinance and any caption or illustration, the text shall control.
- (3) A building or structure includes any part thereof.
- (4) The phrase "used for" includes: "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
- (5) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunctions "and", "or", or "either...or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that the connected items, conditions, provisions, or events apply.
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - c. "Either...or" indicates that the connected items, conditions, provisions, or events apply singly but not in combination.
- (6) "Holidays", as used in this ordinance, shall mean the day on which any holiday officially recognized by the city is celebrated.
- (7) The word "person" includes an individual, corporation, partnership, incorporated association, or any other similar entity. Gender related words include all genders.
- (8) Terms not defined in this ordinance shall have the meaning customarily assigned to them.
- (9) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (10) Whenever reference is made to a federal, state, county, or municipal ordinance, law, or act, it is presumed to include any amendments.
- (11) In computing a period of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the city or other governmental agency is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

Section 2-2. Definitions: A-C.

Accessory building: a detached building or structure that is clearly incidental to, customarily found in connection with, and located on the same zoning lot or parcel as the principal use to which it is related.

Accessory use: a use customarily and normally incidental and subordinate to the principal use of the premises.

Adult foster care (state licensed residential care facility): a governmental or nongovernmental establishment that provides foster care to adults. Subject to Act 218 of 1979, adult foster care facility

includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care.

(1) *Adult foster care family home*: A private residence with the approved capacity to receive not more than six adults who are provided with foster care for five or more days a week and for two or more consecutive weeks.

(2) *Adult foster care large group home*: An adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.

(3) *Adult foster care small group home*: An adult foster care facility with the approved capacity to receive not more than 12 adults who are provided with foster care.

(4) *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.

Alteration or reconstruction: any change, addition or modification to a structure or type of occupancy, any change to the structural members of a building such as walls or partitions, columns, beams or girders.

Arcade: any establishment with more than four recreation or entertainment games for pay including, but not limited to, pinball, video games, and other like activities involving active participation by the customer.

Basement: that portion of a building that is partly or completely below grade where the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling.

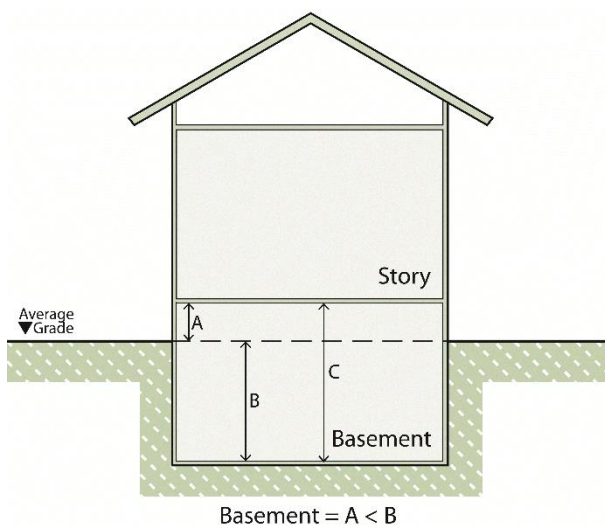
Bed and breakfast establishment: An owner-occupied dwelling that offers overnight accommodations to guests within the dwelling for compensation for periods not exceeding 10 consecutive nights and which may or may not serve breakfast as part of the overnight accommodation.

Berm: a mound of soil graded, shaped and improved with landscaping in such a fashion as to be utilized for screening and/or aesthetic purposes.

Buffer strip: a strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or greenbelt in carrying out the requirements of this ordinance.

Buildable area (also "Building envelope"): the space remaining on a lot or parcel after required setbacks are met.

Building: an enclosed structure having a roof supported by columns, walls, or other supports, intended for the shelter or enclosure of persons, animals, chattels, business activities, or other uses. The term "building" includes the phrase "structure" or any part thereof.



Building height: the vertical distance from average grade to a point halfway between the eaves and the ridge of gable, hip, and gambrel roofs; the top of the highest point of the roof surface for flat roofs; and the deck line for mansard roofs.

Building, main or principal: a building in which is conducted the principal use of the lot on which it is situated.

Certificate of zoning compliance: a document signed by an authorized city official and issued prior to the development of property or establishment of a use, acknowledging that the use, structure, or building complies with the provisions of this ordinance.

Clearing: the removal of vegetation from any site, parcel, or lot except when land is cleared and cultivated for bona fide agricultural or garden use in a district permitting that use. Mowing, trimming, pruning or removal of vegetation to maintain it in a healthy, viable condition is not considered clearing.

Clinic, medical/dental: a place for the care, diagnosis, and treatment of persons in need of medical, dental, or minor surgical attention. A clinic may also include customary laboratories and pharmacies incidental or necessary to its operation but does not include facilities for inpatient care or major surgery.

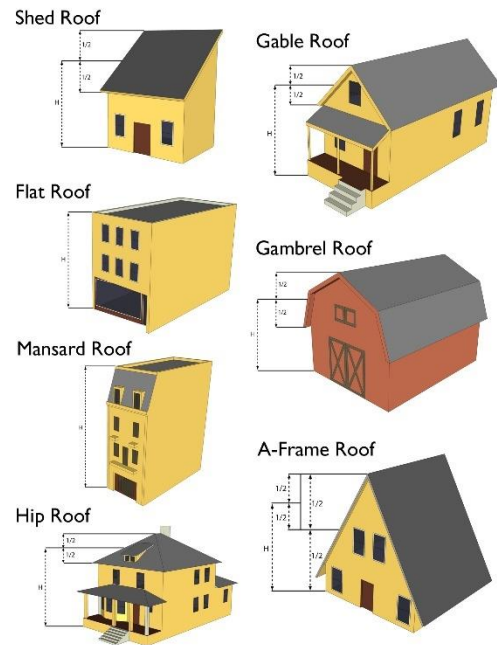
Clinic, veterinary: a place for the care, diagnosis, and treatment of sick or injured animals, and those in need of medical or minor surgical attention. A veterinary clinic may include customary pens or cages only within the clinic structure.

Condominium documents: the master deed, recorded pursuant to the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.), and any other instrument referred to in the master deed or bylaws affecting the rights and obligations of a co-owner of the condominium.

Conservation easement: a nonpossessory interest in real property imposing limitations or affirmative obligations on the use of the property, which may include retaining or protecting natural, scenic, or open space values of the property; assuring its continued availability for agricultural, forest, recreational, or open space use; or protecting its natural resources.

Convalescent or nursing home: a residential establishment, whether operated for profit or not, for the care of the aged, infirm, or those suffering from bodily disorders, wherein two or more persons are housed or lodged and furnished with nursing care.

Cul-de-sac: a dead-end public or private street, generally short in distance, terminating in a circular or semi-circular section of street allowing for vehicle turnaround.



Section 2-3. Definitions: D-G.

Day care:

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

(2) *Group day care home*: a private home in which more than six but not more than 12 minor 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. Group day care includes a home that gives care to more than six but not more than 12 unrelated minor children for more than four weeks during a calendar year.

(3) *Day care center*: a facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents are not immediately available to the child.

Development: the construction of a new building or other structure on a lot or parcel, the relocation of an existing use or building on another lot or parcel, or the use of acreage or open land for a new use.

District or zoning district: a portion of the incorporated part of the city, as shown on the city zoning map, within which certain uses of land, buildings, and structures are permitted and within which specified regulations and requirements apply under the provisions of this ordinance.

Drive-through facility: any facility used to serve patrons of a business establishment while in their motor vehicles, either exclusively or in addition to service within a building or structure.

Driveway, private: an undedicated, privately controlled and maintained right-of-way or other interest in land that provides access to no more than two lots or parcels.

Dwelling:

(1) *Dwelling, accessory*: an attached or detached dwelling unit subordinate to a principal one-family detached dwelling on the same lot or parcel, with a separate entry and containing sleeping quarters, a bathroom, living area, and kitchen facilities.

(2) *Dwelling, multiple-family*, a building containing three or more individual dwelling units.

(3) *Dwelling, one-family, attached*: A dwelling designed for occupancy by one family in a row of at least three dwelling units in which each unit has its own front and rear access to the outside, no unit is located over another, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

(4) *Dwelling, one-family, detached*: a detached building designed for and occupied exclusively by one family.

(5) *Dwelling, two-family*: a building containing two individual dwelling units.

Dwelling unit: a room or other portion of a building, designed for occupancy by one family for living and sleeping purposes, with housekeeping facilities.

Easement: a right, distinct from ownership of the land, to cross property with facilities such as, but not limited to, driveways, roads, utility corridors, sewer lines, water lines, and transmission lines, or the right, distinct from the ownership of the land, to reserve and hold an area for open space, recreation, drainage, or access purposes.

Essential services: the erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel, or water transmission or distribution system; collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarms, traffic signals, hydrants; and similar equipment in connection therewith; provided, this definition shall not include any buildings associated with the furnishing of such essential services. For the purposes of this ordinance, wireless communications towers and antennas are not considered essential services.

Excavation: any breaking of the ground to hollow out by cutting, digging, or removing soil or rock matter, except for common household gardening and general farm care.

Family: one of the following:

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

Fence: a permanent enclosure, barrier, wall, structure, or gate erected and used as a means of enclosing, confining, or delineating a boundary line.

Filling: depositing or dumping of any matter onto or into the ground, except common household gardening and general farm care.

Flood or flooding: a general and temporary complete inundation of normally dry land area from:

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

Flood hazard area: that area subject to flooding, on the average of at least once in every 100 years as determined by the Federal Emergency Management Agency (FEMA).

Flood hazard boundary map (FHBM): an official map of the city issued by the FEMA where the boundaries of the areas of special flood hazard have been designated as zone A.

Flood insurance rate map (FIRM): an official map of the city on which the FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the city.

Flood insurance study: the official report provided by the FEMA. The report contains flood profiles, as well as the flood hazard boundary floodway map and the water surface elevation of the base flood.

Floor area:

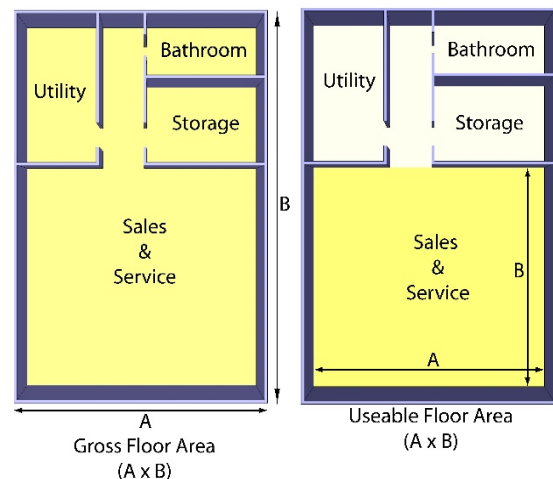
- (1) *Floor area, gross (GFA):* the sum of the gross horizontal areas of the several floors of a building measured from the exterior walls or from the centerline of walls separating two buildings.

- (2) *Floor area, residential:* the area of a dwelling unit measured from the interior of the exterior walls of the unit: provided, areas of basements, unfinished attics, attached or detached accessory structures, breezeways, or enclosed and unenclosed porches shall not be counted as floor area.

- (3) *Floor area, usable (UFA):* the gross floor area of the building minus the areas of the building not being used in a manner that contributes to the principal use of the property, such as floor area used or designed to be used as restrooms, closets, corridors, and mechanical rooms.

Foster family care (state licensed residential care facility):

- (1) *Foster family home:* a private home in which one but not more than four minor children, who are not related to an adult member of the household by blood or marriage, or who are not



placed in the household under the Michigan Adoption Code, Public Act No. 288 of 1939 (MCL 710.21 et seq.), are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

(2) *Foster family group home*: a private home in which more than four but fewer than seven minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan Adoption Code, Public Act No. 288 of 1939 (MCL 710.21 et seq.), are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

Garage, private: an accessory building or portion of a main building designed or used for the storage of motor-driven vehicles, boats, and similar vehicles owned and used by the occupants of the building to which it is accessory.

Grade: the highest point of ground contacting any portion of the basement or foundation of a dwelling.

(1) *Grade, average*: a reference plane representing the average of the finished ground level adjoining the building at all exterior walls; provided, for purposes of measuring height of residential buildings, "average grade" is the average of the finished ground level adjoining the building along the front elevation.

(2) *Grade, natural*: the grade of a site that exists or existed prior to manmade alterations, such as grading, filling, or excavating.

(3) *Grade, finished*: the final grade of a site after grading, filling, or excavating.

Section 2-4. Definitions: H-M.

Home occupation: a business or profession that is customarily incidental and secondary to the use of a dwelling. It is conducted in the dwelling or accessory building on the same lot as the dwelling, carried out by its occupants utilizing equipment typically found in a home, and is not evident from the outside.

Hospital: a facility providing health care services primarily for in-patient and surgical care of the sick or injured, including related facilities that are an integral part of the facility such as laboratories, out-patient departments, clinics, central service facilities, and staff offices.

Hotel or motel: a facility offering lodging accommodations to the traveling public for a daily or other rate and which may provide additional services, such as restaurants, gift shops, meeting and banquet rooms, and recreational facilities.

Junkyard: an open area where waste, used, or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A junkyard includes automobile wrecking yards and any area of more than 200 square feet for storage, keeping, or abandonment of junk, but does not include uses conducted entirely within enclosed buildings.

Kennel: any lot or premises on which three or more dogs, cats, or other household pet are bred, boarded, or sold for commercial purposes.

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

Land Division Act: Michigan law regulating the division of land (MCL 560.101 et seq.).

Livestock: cattle, sheep, goats, poultry, and other animals normally kept or raised on a farm.

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 and unloading merchandise or materials.

Lot: a parcel of land intended for individual use, separately described on a deed or other instrument recorded in the office of the Ionia County Register of Deeds, whether by metes and bounds, as part of a platted subdivision, or as a site condominium.

Lot area: the total horizontal area within the lot lines of the lot, excluding any public right-of-way.

Lot coverage: the part or percentage of the lot area occupied by buildings, including accessory buildings.

Lot depth: the horizontal distance between the front and rear lot lines, measured along the median between side lot lines.

Lot frontage: the shortest linear distance of that portion of a lot or parcel abutting a public or private street right-of-way, measured along the right-of-way line between the side lot lines on an interior or through lot and between the designated side lot line and opposite front lot line on a corner lot.

Lot width: the horizontal distance between side lot lines measured at the two points where the required front setback intersects with the side lot lines.

Lot, corner: a lot with at least two contiguous sides abutting two intersecting streets, and where the interior angle of the intersecting streets is less than 135 degrees. Also, a lot located on a curved street or streets if tangents of the curve, at the points of beginning with the lot or the points of intersection of the side lot lines with the street line, intersect at the interior angle of less than 135 degrees.

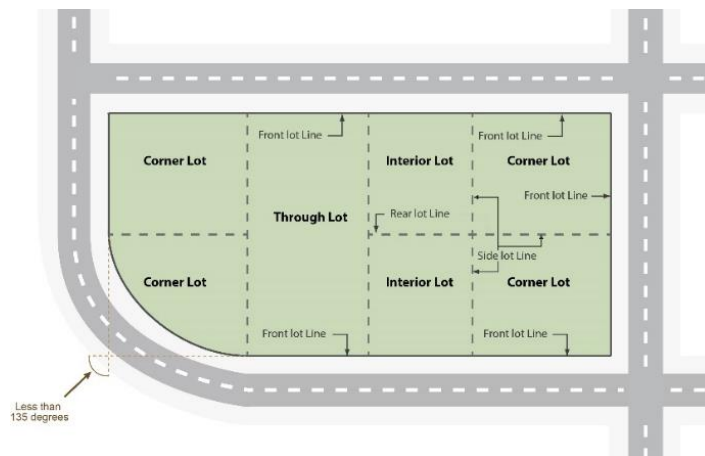
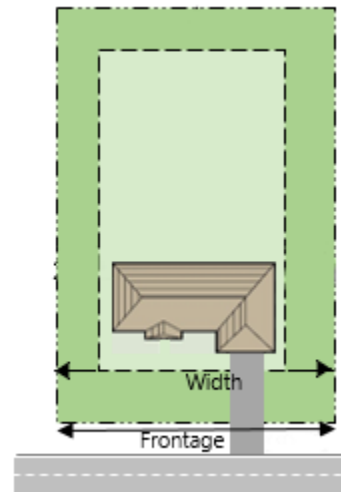
Lot, through (also called a "double frontage lot"): any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot.

Lot, interior: any lot other than a corner lot or through lot.

Lot lines: the lines bounding a lot defined as follows:

- (1) *Front lot line:*
 - a. In the case of an interior lot, the line separating the lot from the street.
 - b. Corner and through lots shall have two front lot lines and two front yards. The other yards shall be considered side yards.
- (2) *Rear lot line:* The lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary 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.
- (3) *Side lot line:* Any lot lines other than the front lot line or rear lot line. A side lot line separating a lot from another lot is an interior side lot line.

Lot of record: a parcel of land separately described on a plat, condominium document, or metes and bounds description recorded in the office of the Ionia County Register of Deeds.



Main building: a building in which is conducted the principal use of the lot upon which it is situated.

Manufactured home: a structure designed or used for residential occupancy built, in compliance with the National Manufactured Home Construction and Safety Standards Act, upon or having a frame or chassis to which wheels may be attached so it may be moved upon a highway, whether or not such structure actually has, at any given time, such wheels attached, or is jacked up or skirted.

Manufactured home community: any plot of ground upon which two or more manufactured homes, occupied for dwelling or sleeping purposes, are or may be located, and licensed as such by the state.

Manufactured home site: a site dedicated for the placement of a manufactured home within a manufactured home community, but not including drives, common open space, or other open areas not specifically for manufactured home occupancy.

Marihuana, also known as medical marihuana, also known as marijuana, also known as cannabis: That term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7106 et seq., as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26423(d). Any other term pertaining to marihuana used in this section and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the general rules of the Michigan Department of Community Health issued in connection with that act.

Marihuana collective or cooperative: Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient, as defined by the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. (the "act"), or a person in possession of an identification card issued under the act or in possession of an application for such an identification card. The term "collective" or "cooperative" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. or the Administrative Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133. A "marijuana collective or cooperative" shall not include the following uses: a state-licensed health care facility; a state-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, collective or cooperative within the city.

Marihuana dispensary or dispensary: Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient, as defined by the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. (the "act"), or a person in possession of an identification card issued under the act or in possession of an application for such an identification card. The term "dispensary" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. or the administrative rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133. A "marihuana dispensary" shall not include the following uses: a state-licensed health care facility; a state-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules

of the State of Michigan. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, collective or cooperative within the city.

Massage establishment: Any establishment having a fixed place of business where massages are administered for pay and duly licensed by the city or the State of Michigan. The term "massage" is defined as a method of treating the external parts of the human body by rubbing, stroking, kneading, tapping, or vibrating with the hand or any instrument.

Master plan: the future plan for the city prepared in accordance with the Michigan Planning Enabling Act (PA 33 of 2008) and adopted by the city.

Medical use of marihuana: The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq.

Mezzanine: an intermediate or fractional story between the floor and ceiling of a main story, occupying not more than one-third of the floor area of such main story.

Mini storage: a building or group of buildings in a controlled access compound where individual compartments, stalls, or lockers are rented to tenants for the storage of goods.

Motel. See *hotel*.

Section 2-5. Definitions: N-S.

Natural features: includes soils, wetlands, woodlots, landmark and specimen trees, floodplains, water bodies, groundwater, topography, vegetative cover, and geologic formations.

Nonconforming building: a building or portion thereof, lawfully existing at the effective date of this ordinance, or subsequent amendments, that does not conform to the current setback, height, size, or other dimensional provisions related to buildings or building placement of the district in which it is located.

Nonconforming lot: a lot lawfully existing at the effective date of this ordinance, or subsequent amendments, that does not meet the current area, width and/or, depth requirements for the zoning district in which it is located.

Nonconforming use: a use which lawfully occupied a building or land on the effective date of this ordinance, or subsequent amendments, that does not conform to the use provisions of this ordinance.

Nuisance: an offensive, annoying, unpleasant, or obnoxious thing or practice being a cause or source of annoyance.

Nursery, plant: a space, building, or structure, or combination thereof, for growing and storage of live trees, shrubs, or plants.

Occupancy load: the number of individuals normally occupying a building or part thereof or for which the existing facilities have been designed as calculated by the adopted state construction code.

Open air business: a use operated for profit substantially in the open air, including, but not limited to:

- (1) bicycle, utility truck or trailer, boats, or home equipment sale, repair, rental, or storage service;
- (2) outdoor display and sale of garages, motor homes, manufactured homes, snowmobiles, farm implements, swimming pools, and similar activities; and
- (3) retail sale of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.

Parcel: a tract of land, legally described, and capable of being located by survey.

Parking lot: an open area, outside of the public right-of-way, intended and used for vehicular parking spaces along with drives and aisles for access and maneuvering.

Parking space: a space of definite length and width, exclusive of drives, driveways, aisles, or entrances, fully accessible for the storage or parking of permitted vehicles.

Personal service establishment: a business providing services involving the care of a person or repair of personal goods or apparel.

Planned unit development: a development tool that permits certain flexibility in use, lot dimensions, and other development requirements for purposes as specified in this ordinance.

Planning commission: the planning commission of the city.

Poultry: domestic fowl such as chickens, turkeys, ducks, and geese.

Principal use: the primary use of a property.

Public utility: any person, municipal department, board, or commission duly authorized to furnish to the public under federal, state, or municipal regulations: natural gas, steam, electricity, sewage disposal, communication, transportation, or water. This definition shall not include wireless communication providers.

Recreational vehicle: a vehicle or equipment used primarily for recreational purposes, including, but not limited to motor homes, travel trailers, camper trailers, pop-up campers, boats, snowmobiles, motorcycles, dune buggies, and similar vehicles, and trailers used to transport them.

Residential district: the R-1, R-2, R-3, and R-4 zoning districts.

Road authority: the city, Ionia County Road Commission, or Michigan Department of Transportation, having jurisdiction over a particular street or street segment.

Setback, required: the minimum required horizontal distance by which specified buildings and structures must be set back from a lot line and/or street right-of-way line.

(1) *Setback, required front*: the line marking the minimum required distance a building and structure must be located from the street right-of-way line or private street easement line.

(2) *Setback, required rear*: the line marking the minimum required distance a building and structure must be located from the rear lot line.

(3) *Setback, required side*: the line marking the minimum required distance a building and structure must be located from the side lot line.

Sexually oriented business: includes adult bookstores, adult cabarets, adult motion picture theaters, and nude artist and photography studios. These terms shall have the following indicated meanings:

(1) *Adult book store*: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals, videotapes, movies, electronic media, or adult-related novelties which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.

(2) *Adult cabaret*: An establishment including, but not limited to, a cafe, restaurant or bar which features erotic dancers, strippers, or similar entertainers who perform in a state of undress and display specified anatomical body parts.

(3) *Adult motion picture theater*: An establishment used for presenting material 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 therein.

(4) *Nude artist and photography studio*: Any building, structure, premises, or part thereof used solely or primarily as a place which offers as its principal activity models to display "specified anatomical areas" as defined herein for artists and photographers for a fee or charge.

(5) *Specified anatomical areas*: Specified anatomical areas are defined as less than completely and opaquely covered:

- a. Human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
- b. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(6) *Specified sexual activities*: Specified sexual activities are defined as:

- a. Human genitals in a state of sexual stimulation or arousal.
- b. Acts of human masturbation, sexual intercourse or sodomy.
- c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Shopping center: three or more commercial establishments that are contiguous and developed under one site plan.

Short-term rental: A business engaged in the rental of an entire dwelling unit to provide guest lodging for pay for periods not-to-exceed 29 days and which does not include serving food.

Sign: a device, structure, fixture, or placard designed for the purpose of advertising or identifying a service, establishment, merchandise, or entertainment establishment or otherwise intended or used to advise or inform.

Site condominium development: a development designed to function in a similar manner, or as an alternative, to a platted subdivision but is recorded under the condominium law rather than the land division act.

Site plan: a plan showing all relevant features of a proposed development and adjoining properties in order to determine whether it meets the requirements and standards of this ordinance.

Special land use: a use specified in this ordinance as permissible in a specific district upon approval by the planning commission.

Stable, commercial: buildings and grounds used for boarding, riding, or breeding of horses or for equestrian events for compensation.

Stable, private: buildings and grounds used for boarding of horses which are owned by the owners or occupants of the facility and are not open to the general public or for commercial breeding.

Story: that part of a building, except a mezzanine or basement, that is between the surface of any floor above the ground and the surface of the next floor above it, or if there is no floor above then the ceiling next above.

Story, half: an uppermost story under a sloping roof with a usable floor area that does not exceed two-thirds of the gross floor area in the story directly below: provided, the area contains at least 200 square feet of usable floor space with a clear height of seven feet.

Street: a public thoroughfare providing the principal access to abutting property.

Private street: an undedicated, privately controlled and maintained right-of-way or other interest in land that provides access to more than two lots or parcels.

Structure: anything constructed or erected and designed for a permanent location in or on the ground, or that must be attached to something having such a permanent location. Structures include, but are not limited to: buildings, parking lots, access drives, swimming pools, and signs.

Section 2-6. Definitions: T-Z.

Tattoo parlor: a business establishment where an indelible mark is made upon the body of another individual by the insertion of a pigment under the skin or by the production of scars or by branding.

Temporary building or use: a structure or use established on private property which is inherently for only a limited period. Examples include street fairs, art exhibits, weddings, and gatherings or events in neighborhoods involving large groups of people, and office trailers erected during construction of a specific building or project. Temporary uses do not include garage sales or events/activities which occur entirely within a park, street, or other property owned or controlled by the city or the schools and approved by the city or schools.

Use or used: the purpose for which land or a building is designed, arranged, or intended, or for which land or a building is or may be occupied, either as its principal purpose or accessory to the principal purpose.

Variance: an allowed modification of this ordinance granted by the zoning board of appeals, where there is a demonstrated practical difficulty or an unnecessary hardship in the way of carrying out the strict letter of this ordinance.

Vehicle repair, major: any activity involving the general repair, rebuilding, or reconditioning of motor vehicles, engines or trailers; collision service, such as body, frame or fender straightening and repair; overall painting and vehicle rust-proofing; or steam cleaning.

Vehicle repair, minor: any activity involving routine repair and maintenance of passenger vehicles and light trucks/vans, including, but not limited to vehicle detailing, oil change establishments, brake and muffler repair or installation, audio installation, and auto glass installation and repair, but not including fuel sales.

Vehicle service station: an establishment where motor vehicle fuel is sold and other accessory uses/services may be found, including minor vehicle repair, sale of related products and accessories which may also be installed on the premises, and the sale of convenience items. Convenience items may include, by way of example, snacks, beverages, apparel, gifts, and food.

Vehicle wash facilities: a building, or portion of a building, the primary purpose of which is that of washing motor vehicles, either as a self-service or automatic process.

Watercourse: any waterway, river, stream, inland lake or pond, or other body of water having definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water. The term "watercourse" does not include lakes or ponds constructed by excavating or diking dry land and maintained for the sole purpose of cooling or storing water and does not include lagoons used for treating polluted water.

Wetland: land characterized by the presence of water at a frequency and duration sufficient to support and that, under normal conditions, does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh.

Whole-house lodging: A business engaged in the rental of an entire dwelling unit to provide guest lodging for pay for periods not-to-exceed 29 days and which does not include serving food.

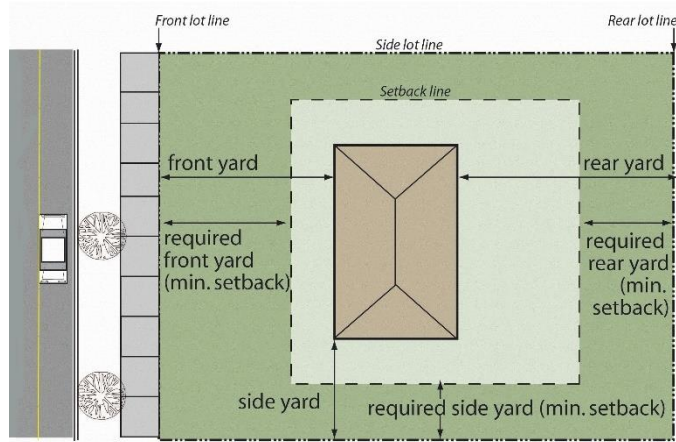
Wireless communication tower: a structure designed and constructed to support one or more antennas used for licensed telecommunications services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services marketed to the general public.

Yard: the open spaces on a lot located between a building and a lot line, unoccupied and unobstructed from the ground upward.

(1) **Front yard:** an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between a public or private street right-of-way line and the nearest point of the main building.

(2) **Rear yard:** an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. Corner lots and through lots are not considered to have a rear yard.

(3) **Side yard:** an open space between the nearest point of a main building and the side lot line, extending from the front yard to the rear yard.



Yard, required: that portion of the yard lying between the minimum required setback lines and the lot lines.

Zoning Act: the Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.).

Zoning administrator: the person designated by the city council to administer the provisions of this ordinance.

DIVISION 2 – ZONING DISTRICTS

ARTICLE III. ZONING DISTRICTS AND MAP

Section 3-1. Establishment of Districts.

For the purposes of this ordinance, the city is divided into the following zoning districts:

Residential Districts	
R-1	Low density residential district
R-2	Traditional residential district
R-3	Multiple-family residential district
R-4	Manufactured home community district
Business Districts	
O-R	Office/research/business district
C-1	Central business district
C-2	General business district
C-3	Highway commercial district
IND	Industrial district
Special District	
PUD	Planned unit development districts
Overlay Districts	
FP	Floodplain district
GR	Grand River Corridor

Section 3-2. Official Zoning Map.

The boundaries of the zoning districts enumerated in section 3-1 are established as shown on the "Official Zoning Map, City of Portland," which accompanies this text. This map with all its notations, references, and other information is hereby adopted by reference as a part of this ordinance and is on file in the office of the city clerk. One copy of the official zoning map shall be maintained and kept up to date by the city clerk, accessible to the public, and shall be the final authority as to the current zoning status of all property in the city.

Section 3-3. Interpretation of Zoning Boundaries.

If there is any uncertainty, contradiction, or conflict regarding the intended location of any district boundaries shown on the map due to scale, lack of details, or illegibility, interpretation concerning the exact location of district boundary lines shall be determined by the zoning board of appeals upon written application. In arriving at a decision, the board shall be guided by the following rules:

- (1) The boundaries of zoning districts are intended to follow centerlines of alleys, streets, other rights-of-way, or lot lines, or to be parallel or perpendicular thereto, unless the district boundary lines are otherwise clearly indicated on the official zoning map.
- (2) Where district boundaries are indicated to approximately follow lot of record lines, those lines shall be construed to be the boundaries.
- (3) Unless shown by dimension on the official zoning map, where a district boundary divides a lot of record the location of the boundary shall be determined by use of the scale shown on the map.
- (4) Where district boundaries are indicated as approximately following city limits, they shall be construed as following the city limits.

(5) A boundary indicated as following a shoreline shall be construed as following that shoreline, and in the event of a naturally occurring change in a shoreline, the boundary shall be construed as following the actual shoreline. A boundary indicated as following the centerline of a stream, river, or other body of water shall be construed as following that centerline.

(6) If a district boundary is indicated as being parallel to, or an extension of a feature described in this section it shall be so construed.

(7) Where physical or natural features existing on the ground do not coincide with those shown on the official zoning map or in other circumstances not covered in this section the zoning board of appeals shall determine the district boundaries.

Section 3-4. Zoning of Vacated Areas.

If a street, alley, or other public right-of-way is vacated by official governmental action and if the lands within the boundaries thereof attach to and become part of lands adjoining the street, alley, or public right-of-way, the lands involved shall automatically acquire and be subject to the same zoning regulations applicable to adjoining lands and shall be governed by this ordinance.

Section 3-5. Zoning of Filled Land; Use of Waters.

If earthen fill is placed in any lake or stream, the created land shall automatically and without further governmental action acquire and be subject to the same zoning regulations applicable for lands to which the land attaches or is adjacent; and the created land shall be used for those purposes as are permitted under this ordinance for the adjoining lands.

Section 3-6. Zoning of Annexed Areas.

Any area which is annexed to the city shall be in the R-1 district. The city council shall, promptly after the passage of an ordinance of annexation, request the planning commission to make a recommendation on the appropriate zoning classification of the annexed area. The planning commission shall initiate amendment procedures as provided in this ordinance if it determines the annexed area should be in a district other than R-1.

Section 3-7. Split Parcels.

Where a zoning line divides a lot or where two lots in different districts are combined, the entire lot shall be considered to be wholly within the more restrictive zoning district. Where two lots are combined and one of the lots is within an overlay district, the entire lot shall be considered to be wholly within the overlay district. *Table 3-1* lists districts from most restrictive to least restrictive.

ARTICLE IV. RESIDENTIAL ZONING DISTRICTS.

Section 4-1. Purpose.

(a) *R-1, Low Density Residential.*

The R-1 District is the lowest density single-family district and is primarily located near the edges of the city on land yet to be developed or where developed lots tend to be larger than those in the core of the community. Other uses are also permitted such as places of religious worship and schools that contribute to the fabric of the neighborhood, recreational amenities requiring sizeable land area such as golf courses, and uses often found in large lot residential areas such as riding stables.

(b) *R-2, Traditional Residential.*

The R-2 District comprises much of the residentially zoned land in the city. It accommodates the moderate density development that typifies the city's traditional development pattern of small lots arranged on a grid street pattern. The district also accommodates the two-family and multi-family dwellings that were established prior to the adoption of this ordinance. Like the R-1 District, it allows for support uses that contribute to the neighborhood character.

(c) *R-3, Multiple-Family Residential.*

The R-3 District is established to allow higher density residential development primarily consisting of more than one dwelling unit per structure. However, it is not the intent of the district to promote a living environment of lesser quality or desirability than other residential districts. To that end, amenities and complementary uses like those allowed elsewhere are permitted.

(d) *R-4, Manufactured Home Community.*

The R-4 District is a specialized district to accommodate the typically high-density residential character of manufactured housing communities. A range of other uses is also permitted to support the community and provide for the recreational and social amenities that contribute to a desirable living environment within what is often a self-contained community.

Section 4-2. Table of Uses.

The following abbreviations apply to the table of uses for the residential districts:

P – Permitted use: Land and/or buildings in this district may be used for the purposes listed by right.

SLU – Special land use: The following uses may be permitted by obtaining special land use approval when all applicable standards cited in article XIII of this ordinance are met.

Table of Uses		R-1	R-2	R-3	R-4
Accessory uses	Accessory buildings and uses subject to section 8-1.	P	P	P	P
	Accessory dwelling unit (accessory only to single-family detached dwelling units)	SLU	SLU		
	Bed and breakfast establishment	SLU	SLU		
	Family day care home	P	P	P	P
	Group day care home	SLU	SLU		
	Home occupation subject to section 8-7.	P	P	P	P

Table of Uses		R-1	R-2	R-3	R-4
Residential uses	Adult foster care congregate facility		SLU	SLU	
	Adult foster care family home, provided the facility shall not be within 1,500 feet of another state licensed residential facility.	P	P	P	
	Adult foster care small and large group home	SLU	SLU		
	Foster family home or foster family group home, provided the facility shall not be within 1,500 feet of another state licensed residential facility.	P	P	P	
	Manufactured housing community				P
	Multiple-family dwelling		p ¹	P	
	Single-family attached dwelling			P	
	Single-family detached dwelling	P	P		
	Two-family dwelling		p ¹	P	
Institutional uses	Cemetery		P		
	Convalescent or nursing home			SLU	
	Elementary, middle and high school (public)	P	P	P	P
	Elementary, middle and high school (private)	SLU	SLU	SLU	SLU
	Place of religious worship	SLU	SLU	SLU	SLU
Nonresidential uses	Golf course or country club	SLU			
	Municipal and public service activities	SLU	SLU	SLU	SLU
	Park, playground, and community center	P	P	P	P
	Stable (commercial)	SLU			
	Stable (private)	P			
	Utility substation, transmission line and switching station	SLU	SLU	SLU	SLU
	Wireless communication tower	Under 75 feet in height wholly owned and used by a federally licensed amateur radio station operator.		P	P
		Located on city-owned or controlled property		P	P
	Wireless communications antenna only when attached to a lawful existing telecommunications tower, water tower, or other structure		P	P	P

¹ Only those two-family and multi-family dwellings that existed legally in the R-2 District prior to the adoption of this Zoning Ordinance May 1, 2023 are permitted and shall not be considered nonconforming uses.

Section 4-3. Dimensional Requirements.

Requirements			Districts			
			R-1	R-2	R-3	R-4
Minimum Lot Requirements	Lot Area (sq. ft.)		10, 850	6,000 ²	21,780 ³	5,000
	Lot Width (ft.)		80	65 ⁴	120	40
	Lot Depth (ft.)		135	120	180	-
	Lot Coverage (maximum %)		35	40	50	-
Minimum Setbacks	Front (ft.)		25	25	30	5 ⁵
	Rear (ft.)		30	30	40	15 ⁴
	Side (ft.)	One side	8	8 ⁶	20	10 ⁴
		Total 2 sides	22	18	45	30 ⁴
Building Requirements	Height (maximum ft.)		35	35	35	35
	Residential Floor Area (minimum sq. ft.)		1,040	850	7	600
	Maximum Multi-Family Density (units/acre)		-	-	12	-

Section 4-4. Other Requirements.

(a) In addition to the requirements of this article, all development in the residential districts shall meet the applicable requirements as listed elsewhere in this ordinance or the city code.

- (1) Overlay Zone Requirements, see *article 6*
- (2) General Provisions, see *article 8*
- (3) Parking and Loading, see *article 9*
- (4) Landscaping and Buffering, see *article 10*
- (5) Special Use Requirements, see *articles 12 and 13*
- (6) Site Plan Review, see *article 14*
- (7) Subdivision Regulations, see *chapter 16 (city code of ordinances)*
- (8) Signs, see *chapter 28 (city code of ordinances)*

(b) The following chart summarizes the application and review requirements for the residential districts. No application shall be accepted unless in compliance with all applicable requirements, unless

² Minimum lot area shall be increased by 3,000 sq. ft. for each additional dwelling unit beyond one.

³ Minimum lot area and width apply to multi-family dwellings. Minimum area and width for one-family dwelling shall be 6,000 sq. ft. and 65 ft. wide; for two-family dwellings, the minimum lot area shall be 9,000 sq. ft. and 70 ft. wide.

⁴ Minimum required width shall be increased by five ft. for each additional dwelling unit beyond one.

⁵ A 50 ft. minimum setback shall be required from the perimeter boundary within the manufactured home community site. Setbacks for all uses not located within a manufactured home community shall be as required in the R-3 District.

⁶ Minimum side yard on one side shall be increased by two feet for each additional dwelling unit beyond one. Total minimum side yard shall be increased by four feet for each additional dwelling unit beyond one.

⁷ Required minimum floor area shall be based on number of bedrooms, as follows: one bedroom – 650 sq. ft., two bedrooms – 750 sq. ft., three bedrooms – 900 sq. ft., 100 additional sq. ft. for each bedroom over three

specifically waived by the zoning officer. Note: Single-family homes must provide a plot plan, not a site plan.

Review Process	Applications
	Requirements
Site plan review	Completed application form
	Application fee/escrow fee
	Proof of ownership or interest in property
	Legal description of property
	Narrative addressing review standards of section 14-6
	Complete site plans in accordance with section 14-3
Special land uses	Same as site plan review
	Narrative addressing review standards of section 12-4 and applicable specific use standards of article 13.
Rezoning	Completed application form
	Application fee/escrow fee
	Property map showing property to be rezoned and surrounding properties and current zoning
	Proof of ownership or interest in property
	Legal description of property

ARTICLE V – BUSINESS ZONING DISTRICTS

Section 5-1. Purpose.

(a) C-1, Downtown Business District.

The C-1 business district is intended to support a traditional downtown main-street atmosphere by concentrating in the core town center a complementary mix of uses that can thrive and promote pedestrian interaction. The district regulations are designed to enhance the downtown as a vibrant community focal point that gives the city a distinguishable identity through the integration of business activity, governmental functions, services, public gatherings, and residential uses.

(b) C-2, General Business District.

The C-2 general business district is intended primarily to accommodate businesses catering to the routine shopping and service needs of city's residents. Uses in this district are most likely to be frequented by users driving rather than walking. As a result, parking lots are generally associated with each use and vehicular access controls may be required. Due to the typically prominent, high visibility locations of these uses, screening, landscaping, and sign regulations are established to ensure an aesthetically favorable image of the community and to mitigate potential negative impacts on adjacent and nearby residential areas.

(c) C-3, Highway Business District.

The C-3 district is a specialized district intended to create a convenience center for those service uses mainly catering to the motoring public along the interstate highway. Uses are limited to vehicle-oriented uses and district boundaries will be confined to the immediate vicinity of interchanges to ensure expedient access for highway travelers and to minimize the potential added traffic impact upon city streets further from the interchange. Uses are focused on vehicle service stations, drive-in restaurants, hotels, and others primarily offering services to travelers and the motoring public.

(d) O-R, Office/Research/Business District

The O-R district provides specific regulations to promote a mixed-use campus-style environment for office, research, service, and related business uses. It is intended to create a distinctive employment center integrated with the natural environment; incorporating a cohesive mix of compatible uses; and promoting the use of green building technology, long-term community sustainability, and use of high-quality design and materials.

(e) IND, Industrial District

The regulations of this district are intended primarily for heavy commercial and general industrial uses providing employment opportunities. The district is established to encourage operations that manufacture, compound, process, package, treat, and assemble products from previously prepared materials. It also allows certain commercial uses that, because of their intensity or operational characteristics, would generally not be compatible with other uses in the established commercial districts.

Section 5-2. Table of Uses.

The following abbreviations apply to the table of uses:

P – Permitted use: Land and/or buildings in this district may be used for the purposes listed by right.

SLU – Special land use: The following uses may be permitted by obtaining special land use approval when all applicable standards cited in article XIII of this ordinance are met.

<i>Table of Uses</i>	<i>O-R</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>IND</i>
Accessory dwelling as part of a business use	SLU	SLU	SLU	SLU	SLU
Accessory buildings and uses as defined in article 2 and regulated by section 8-1	P	P	P	P	P
Accessory retail sales where such sale is clearly incidental and accessory to the principal permitted use	P			P	P
Airstrips and landing fields					SLU
Art studio/craft shop	P	P	P		
Assembly of paperboard containers, building paper, building board, and bookbinding					P
Bank or other financial institution without drive through facility	P	P	P	P	P
Banquet hall and/or conference center	P	P	SLU		
Brewery/distillery	P	P			
Bus passenger station		P	SLU	SLU	
Catering establishment		P	P		
Central dry-cleaning plant					SLU
Chemical products such as plastics, perfumes, synthetic fibers					SLU
College or university	SLU	SLU	SLU		
Commercial mini-storage				SLU	P
Contractor's yards, building material storage					P
Contractor's office (no outdoor storage)			P		P
Convalescent or nursing home			SLU		
Day care center	SLU	SLU	SLU		SLU
Day care centers where such use is clearly incidental and accessory to the primary use					P
Drive through facility other than a restaurant (e.g., bank, credit union, pharmacy)	SLU	SLU	SLU	SLU	SLU
Dwelling units located above street level		P			
Dwelling units located on the ground floor		SLU			
Electrical substations, electrical switching stations, electrical transmission lines, and pressure control stations or substations for gas, water and sewage					P
Fraternal or social club or lodge	P	P	P		P
Fuel depot					SLU
Greenhouse, hydroponics, aquaculture facility			P		P
Health or exercise club	P	P	P		P
Hospital	SLU	SLU	SLU		

<i>Table of Uses</i>	<i>O-R</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>IND</i>
Hotel	P	P		P	
Indoor theater		P	P		
Kennel, commercial			P		SLU
Laboratories including experimental, film, testing, medical	P				P
Laundromat		P	P		
Lumber and wood products including millwork, prefabricated structural wood products and containers, not including logging camps					P
Lumberyards					P
Massage Establishment		P	P		
Medical office, including clinic	P	P	P		
Micro-brewery	P	P	P		
Mortuary or funeral home		SLU	SLU		
Motor freight terminal					SLU
Motor freight terminal including garaging and maintenance of equipment					SLU
Movie, film, or photo studios, post-processing, or production facilities	P				P
Municipal and public service activities	SLU	SLU	SLU	SLU	SLU
Open air business			P		SLU
Pawnshop			SLU		
Personal service establishment (e.g., salon, tailor, dry cleaning drop-off site, etc.)	P	P	P		
Place of public worship		P			
Printing and publishing	P				P
Production of apparel and other finished products made from fabrics, leather goods, fur, canvas, and similar materials					P
Production of food products including meat, dairy, fruit, vegetable, seafood, grain, bakery, confectionary, beverage and kindred foods					SLU
Production of household goods like jewelry, silverware, toys, athletic, office and tobacco goods, musical instruments, etc.					P
Production of textile mill products including woven fabric, knit goods, dyeing, and finishing, floor coverings, yarn and thread and other textile goods					SLU
Production or assembly of furniture and fixtures					P
Professional offices and professional services	P	P	P		
Recreation facility, indoor (e.g., arcades, bowling, billiards)		P	SLU		
Recreation facility, outdoor (e.g., mini-golf, batting cages)			SLU		

Table of Uses	O-R	C-1	C-2	C-3	IND
Research and development facilities	P				P
Restaurant with drive-through facility			SLU	SLU	
Restaurant without drive-through facility	P	P	P	P	
Retail garden and landscape supply stores with up to 2,000 square feet of outdoor product storage		P	P		
Retail building supplies and equipment stores with outdoor storage			P		SLU
Retail establishment		P	P		
Retail sales of goods where such sale is clearly incidental and accessory to the primary use of producing the items sold					P
Salvage or junkyards					SLU
Sexually oriented businesses					SLU
Short-term rentals (whole-house lodging)		SLU			
Single-family detached dwellings existing prior to ***, 2022		P			
Tattoo parlor			P		
Tavern permitting dancing, live entertainment or consumption of alcoholic liquors on premises except sexually oriented businesses		P	P		
Tool and die manufacturing facilities					P
Trade or industrial schools					P
Truck stop				P	P
Truck wash				SLU	P
Utility substation, transmission line and switching station	SLU	SLU	SLU	SLU	SLU
Vehicle detailing facility			P		
Vehicle repair, major			SLU	P	P
Vehicle repair, minor			P	P	P
Vehicle sales			SLU		
Vehicle service station			SLU	P	
Vehicle wash facility			SLU	P	
Veterinary hospitals or clinics (not including outdoor kennels)	P		P		P
Veterinary hospitals or clinics (including outdoor kennels)	SLU		P		P
Walk-up Automatic Teller Machine (ATM)	P	P			
Warehouses, cartage businesses					SLU
Waste treatment facilities					SLU
Water supply and treatment facilities					P
Wholesale establishments distributing goods including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products					P

<i>Table of Uses</i>	<i>O-R</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>IND</i>
Wireless communications antenna when attached to a lawful existing telecommunications tower, water tower, or other structure	P	P	P	P	P

Section 5-3. Dimensional Requirements.

Requirements			Districts				
			C-1	C-2	C-3	O-R	IND
Minimum Lot Requirements	Lot Area (sq. ft.)		-	21,780	43,560	43,560	43,560
	Lot Width (ft.)		-	80	120	150	150
	Lot Depth (ft.)		-	120	180	250	200
	Lot Coverage (maximum %)		90	50	60	60	75
Minimum Setbacks	Front (ft.)		⁸	25	50	30	50
	Rear (ft.)		-	20	30	25	50
	Side (ft.)		-	10 (50 if adj. to R District)	20	10 (25 ft. total)	25 (50 if adj. to R District)
Height	Maximum (ft.)		50	35	35	60	50
	Minimum (ft.)		35	-	-	-	-

Section 5-4. C-1 District Requirements.

(a) *Building requirements.*

- (1) **Materials.** Any side of a building facing a public street shall be comprised of at least 30 percent of the following materials: brick, decorative concrete block, cut stone, horizontal clapboard siding, or commercial grade vinyl siding (minimum 0.44 gauge). In no case shall vertical siding, cedar shakes, sheet metal, cement board, or EIFS be used.
- (2) **Transparency.** Any building facing a public street shall be comprised of at least 50 percent windows on the first floor and at least 25 percent on each floor above the first floor.
- (3) **Articulation.** Architectural design elements shall be incorporated into the building to add variety and interest. They may include, but are not limited to: strong cornice lines, material texture, prominent corner features, recessed building entries, window sills, lintels, overhangs, canopies or porticos, arcades, recesses and projections, arches, and integral planters.
- (4) **Projections.** No part of a building shall extend beyond the property line; provided, awnings, balconies, and bay windows may encroach into the public right-of-way as follows:
 - a. Awnings shall not project more than three feet from the front face of the building wall and may overhang an abutting sidewalk. The bottom of the awning shall be at least seven feet above the sidewalk.
 - b. Bay windows shall not project more than two feet from the front face of the building wall and may extend over an abutting sidewalk.
 - c. Balconies shall not project more than four feet from the front face of the building wall and may extend over an abutting sidewalk.

⁸ No greater than average setback of adjacent buildings on each side. If there is only one adjacent building, setback shall equal that of the adjacent building.

- (5) Mechanical. Exhaust vents, air handling systems, and similar mechanical appurtenances shall not protrude from any building wall adjacent to a public walkway, except as may specifically be permitted by the planning commission upon a finding that no reasonable option exists and the location will not pose a nuisance to the general public.
- (b) *Outdoor uses.* Outdoor seating may be permitted for those uses serving food or beverages; provided, the following requirements are met:
- (1) the area devoted to outdoor service shall be adjacent and accessory to the main use of an indoor food or beverage establishment;
 - (2) the area devoted to outdoor service shall not encroach upon or extend into any public street, alley, or right-of-way unless specifically authorized by the city;
 - (3) the area devoted to outdoor service shall not be closer than four feet from the curb face along any abutting street or the railing along the river side of the boardwalk; and
 - (4) furniture used for outdoor dining shall be removed and stored indoors or secured outdoors during nonbusiness hours. All furnishings shall be completely removed from December 1 to March 1 each year.
- (c) *Residential uses.* Dwelling units may be located within any building in the C-1 district; provided, no dwelling shall be located on the first floor. Off-street parking shall be provided at a ratio of at least one space per unit and located within 100 feet of the building in which the dwelling is located.

Section 5-5. O-R District Requirements.

- (a) *Parking, loading, and access requirements.*
- (1) Parking lots shall be located no closer than 30 feet to the right-of-way line of E. Grand River Avenue or any interior street, as listed in the City of Portland Master Plan. Parking shall be located at least 15 feet from the Cutler Road right-of-way.
 - (2) Required loading areas shall be located in the rear or side yard.
 - (3) No lot shall have direct vehicular access from Cutler Road or E. Grand River Avenue; provided, where extreme topographic conditions exist and make interior access impractical, the planning commission may permit not more than one access along E. Grand River Avenue no closer than 200 feet to the nearest street intersection or existing driveway.
 - (4) Parking lots shall be landscaped and screened in accordance with the requirements of this ordinance.
- (b) *Building Requirements.*
- (1) Materials.
 - a. All exterior walls shall be clad in durable and maintainable materials. Any side of a building facing a public or private street shall be comprised of at least 30 percent of the following materials:
 1. Brick;
 2. Decorative concrete block;
 3. Cut stone;
 4. Horizontal clapboard siding; and
 5. Commercial grade horizontal vinyl siding (at least 0.44 gauge).
 - b. In no case shall vertical siding, sheet metal, cement board, or EIFS be considered an acceptable building material on any side facing a public or private street.
 - c. The planning commission may, in its sole discretion, deviate from the minimum percentages in the above design standards where the building design incorporates patterns and materials that provide visual interest through changes in color, material, or relief, such as the inclusion of beltlines, pilasters, recesses, and pop-outs.

- (2) Transparency.
 - a. At least 40 percent of a building façade facing a public street must consist of windows and doors on the ground floor and at least 25 percent on all other floors.
 - b. All buildings must have at least one useable door facing the front lot line. For corner lots, the door shall be on the street providing access to the site.
- (3) Articulation.
 - a. Blank walls longer than 40 feet without windows shall not face a street.
 - b. Building facades shall have massing changes and architectural articulation to provide visual interest and texture to avoid monotonous one-dimensional facades.
 - c. Architectural design elements shall be incorporated into the building to add variety and interest. They may include, but are not limited to strong cornice lines, material texture, prominent corner features, strong and simplified building entries, window sills, lintels, overhangs, canopies or porticos, arcades, recesses and projections, arches, outdoor patios, and integral planters.
- (4) Projections.
 - a. Except for eaves, awnings, balconies, bay windows, stoops, and ADA compliant ramps, as specified by this division, no part of a building may encroach into the required setback.
 - b. Eaves and awnings may not project more than 2 feet from the main building wall into the required setback.
 - c. Bay windows may not project more than 3 feet from the main building wall into the required setback.
 - d. Stoops may not project more than 8 feet from the main building wall into the required setback.
- (c) *Landscaping/screening*
 - (1) *Generally.*
 - a. Native vegetation, (indigenous trees, shrubs, wildflowers, grasses, and other plants) and low maintenance turf grasses shall be used to the greatest extent possible.
 - b. Planting design near a building may use a broader palette of ornamental species; provided, plants shall be selected for low water and fertilizer requirements as well as ornamental value.
 - (2) *Parking lots.*
 - a. One canopy tree (minimum three inch caliper) and three understory shrubs shall be provided for every eight parking spaces, or portion thereof. Parking lot landscaping shall be located within parking lot islands or within 20 feet of the edge of the parking lot.
 - b. An opaque hedge or solid masonry wall at least 36 inches high shall be installed along the length of any parking lot along Cutler Road.
 - (3) *Streetscape.*
 - a. The required parking setback area along E. Grand River Avenue and any interior street shall be landscaped and include, at a minimum, the following:
 - 1. One deciduous tree for every 30 feet of frontage along the street.
 - 2. One ornamental tree for every 50 feet of frontage along the street.
 - 3. One evergreen tree for every 50 feet of frontage along the street.
 - b. The required parking setback area along Cutler Road shall be landscaped and include, at a minimum, the following:
 - 1. One deciduous tree for every 30 feet of frontage along the street.

2. One evergreen tree for every 50 feet of frontage along the street.
- c. Required streetscape plantings may be clustered for effect to create a more natural appearance and stronger visual impact.
- (4) *Screening.*
 - a. Dumpsters, utilities, and service areas shall be located within a side or rear yard and shall be screened from view from any street or residential district.
 - b. Mechanical and electrical equipment, whether on a roof or next to a building, shall be screened from view.
- (d) *Lighting.*
 - (1) Light fixtures shall be no taller than 30 feet and must be provided with cut-off fixtures that direct light downward and prevent light spill beyond the property.
 - (2) Additional lighting standards found in section 8-10 shall be met.
- (e) *Pedestrian connectivity.* A pedestrian walkway meeting city standards shall be constructed within the right-of-way along the entire street frontage of the property.

Section 5-6. Other Requirements.

- (a) In addition to the requirements of this article, all development in the business districts shall meet the applicable requirements as listed elsewhere in this ordinance or the city code.
 - (1) Overlay Zone Requirements, see *article 6*
 - (2) General Provisions, see *article 8*
 - (3) Parking and Loading, see *article 9*
 - (4) Landscaping and Buffering, see *article 10*
 - (5) Special Use Requirements, see *articles 12 and 13*
 - (6) Site Plan Review, see *article 14*
 - (7) Subdivision Regulations, see *chapter 16 (city code of ordinances)*
 - (8) Signs, see *chapter 28 (city code of ordinances)*
- (b) The following chart provides for application and review requirements for the business districts. No application shall be accepted unless in compliance with all the following requirements, unless specifically waived by the zoning officer.

Review Process	Applications
	Requirements
Site plan review	Completed application form
	Application fee/escrow fee
	Proof of ownership or interest in property
	Legal description of property
	Narrative addressing review standards of section 14-6
	Complete site plans in accordance with section 14-3
Special land uses	Same as site plan review
	Narrative addressing review standards of section 12-4 and applicable specific use standards of article 13.
Rezoning	Completed application form
	Application fee/escrow fee
	Property map showing property to be rezoned and surrounding properties and current zoning
	Proof of ownership or interest in property

Review Process	Applications
	Requirements
	Legal description of property

ARTICLE VI – OVERLAY DISTRICTS

Section 6-1. Purpose.

The provisions of the Overlay Districts are in addition to those of the underlying zoning districts over which the Overlay District is superimposed. Lands within the Overlay are subject to both the requirements of the underlying zoning district and the Overlay District. In the case of conflicts between the Overlay and those of the underlying zoning district, the provisions of the Overlay shall control.

(a) *FP, Floodplain Overlay District.* The Floodplain Overlay District is intended to promote the public health, safety, and general welfare; to minimize public and private losses in areas subject to flood hazards; and to preserve drainage basins by regulating construction in areas subject to flooding. The district is located as designated on the flood insurance rate map (FIRM) prepared by the Federal Emergency Management Agency.

(b) *GR, East Grand River Corridor Overlay District.* The regulations of the East Grand River Corridor Overlay District are intended to accomplish the following purposes:

- (1) To preserve the vehicle capacity of E. Grand River Avenue by limiting and controlling the number, location, and design of access points; by requiring alternate access where feasible through shared driveways, service drives, and cross-streets; and to encourage the efficient flow of traffic by minimizing the disruption and conflicts between through traffic and vehicle turning movements.
- (2) To improve public safety and reduce the potential for vehicle crashes.
- (3) To avoid the proliferation of unnecessary curb cuts and, when opportunities arise, to eliminate or reconfigure existing access points that may not conform to the requirements of the Overlay.
- (4) To implement the recommendations of the City of Portland Master Plan.
- (5) To avoid unnecessary and costly reconstruction of streets, which can disrupt business operations and traffic flow.
- (6) To ensure efficient access by emergency vehicles.
- (7) To improve safety for pedestrians and other non-motorized travelers by reducing the number of conflict points along the corridor.
- (8) To establish uniform standards to ensure fair and equal treatment among property owners within the Overlay.

Section 6-2. Applicability.

(a) *Floodplain Overlay.*

- (1) This Floodplain Overlay District shall apply to all land depicted on the flood hazard boundary map/flood insurance rate map, as determined by the Federal Insurance Administration, including any subsequent amendments to that map.
- (2) Flood hazard areas shall be treated as an overlay district, which shall:
 - a. restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion, or may increase flood levels or velocities;
 - b. require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - c. control the alteration of natural floodplains, stream channels, and natural protective barriers which contribute to the accommodation of floodwaters;

- d. control filling, grading, dredging, and other changes which may increase erosion or flood damage; and
- e. prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or increase flood hazards to other lands.

(b) *East Grand River Corridor Overlay.*

(1) The East Grand River Corridor Overlay District includes all lands between Cutler Road and Charlotte Hwy. which have frontage on E. Grand River Avenue or are within 200 feet of the right-of-way line on either side of E. Grand River Avenue and have direct or indirect access to that road, except those lands occupied by and zoned for single-family dwellings on a single lot.

(2) The regulations of this ordinance shall apply only in the following circumstances:

- a. The erection of a new building or structure.
- b. The reconstruction, demolition, rehabilitation, or expansion of an existing building or structure exceeding 50 percent of the gross floor area of the existing building.
- c. A proposed platted subdivision or site condominium.
- d. The construction or expansion of an off-street parking lot.
- e. Any other change of land use which will result in an increase in expected average daily trip generation significant enough to cause the site to be included in a higher trip generation intensity category, such as from the low category to the medium category or from the medium category to the high category, as shown in the following table:

Trip Generation Intensity Categories and Examples		
Intensity Categories		
Low (Less than 1,500 Daily Trips)	Medium (1,500 – 4,000 Daily Trips)	High (Greater than 4,000 Daily Trips)
Examples		
150 Unit Apartments (1,050)	Fast Food w/ Drive-Thru (1,500)	50,000 s.f. Strip Commercial Center (4,300)
Pharmacy w/Drive-Thru (1,320)	50,000 s.f. Medical/Dental Office (1,835)	200,000 s.f. Shopping Center (10,650)
150 Room Hotel (1,350)	Gas Station w/ Convenience (1,950)	

Section 6-3. Table of Uses.

The following abbreviations apply to the table of uses:

P – Permitted use: Land and/or buildings in this district may be used for the purposes listed by right.

SLU – Special land use: The following uses may be permitted by obtaining special land use approval when all applicable standards cited in article V of this ordinance are met.

Table of Uses	FP	GR
Boat landings or docks for pleasure use	P	
Parking lots, loading areas and storage areas for equipment and machinery easily moved or not subject to flood damage	SLU	

Table of Uses	FP	GR
Parks and playgrounds	P	
Residential supportive uses such as lawns, gardens, parking areas, or play areas	P	
Structures designed and constructed to withstand a 100-year flood without material damage to the structure and without material obstruction of the floodplain to the detriment of other properties. Permissible construction shall include structures in which the lowest habitable floor, including basement floor, manufactured home floor, and attached garage floor, is at least one (1) foot above documented base 100-year flood elevation. Detached garages or storage buildings shall not be required to be constructed above the flood elevation if designed and constructed in a floodproof manner and approved by the city building official.	P	
Uses allowed within the underlying zoning district, as regulated by that district.		P

Section 6-4. Development Requirements.

(a) *Floodplain Overlay District.* All new construction and substantial improvement to structures shall be constructed so that the lowest floor, including basements, for residential structures shall comply with section 327 of the Michigan Residential Code or for nonresidential buildings shall comply with section 1612 of the state construction code.

(1) Any new and replacement water systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters. On-site waste disposal systems are to be located to avoid impairment to them or contamination from them during flooding.

(2) The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Greater floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This section shall not create liability on the part of the city or by any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made as a result of administering this section.

(3) When base flood elevation data has not been provided on an official flood hazard boundary map, the zoning administrator, shall obtain, review, and reasonably utilize any base flood elevation data available from an authoritative federal, state, or other source.

(4) Responsibilities of the zoning administrator shall be as follows:

- a. notify adjacent communities and the Michigan Department of Environment, Great Lakes, and Energy prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;
- b. obtain necessary engineering analysis to assure that the flood-carrying capacity with the altered or relocated portion of said watercourse is maintained; and
- c. review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

(5) For the purpose of determining applicable flood insurance risk premium rate, the zoning administrator shall:

- a. obtain the elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and determine whether or not such structures contain a basement;

- b. obtain from a registered professional engineer or architect, certification that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood so that the structure is watertight to the base flood level; and
 - c. maintain a record of all such information.
 - (6) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the zoning administrator shall make the necessary interpretation and may consult the city engineer. The person contesting the location of the boundary shall be given reasonable opportunity to appeal the interpretation as provided in this ordinance.
 - (7) No new construction, substantial improvement, or other development (including fill) shall be permitted within the zones A1-30 of the city's flood insurance rate map (FIRM), unless it is demonstrated to the zoning administrator that the cumulative effect of the proposed development will not increase the water surface elevation of the base flood more than one foot at any point within the city.
 - (8) The amount of required off-street parking spaces for individual uses shall be determined in accordance with the requirements of the uses allowed in the underlying zoning district and shall meet the dimensional requirements of article 9 of this ordinance.
- (b) *East Grand River Corridor District.*
- (1) Access requirements.
 - a. *Maximum extent.* For expansion and/or redevelopment of existing sites where the city determines that compliance with all the requirements of this section is impractical or unreasonable, the requirements shall be applied to the maximum extent possible. In these situations, suitable alternatives that substantially achieve the purpose of this overlay district may be accepted by the planning commission; provided, that the applicant demonstrates that all of the following apply:
 - 1. The size of the parcel is insufficient to meet the dimensional standards;
 - 2. The spacing of existing adjacent driveways or environmental constraints prohibit adherence to the access standards at a reasonable cost;
 - 3. The use will generate less than 500 total vehicle trips per day or less than 75 total vehicle trips in the peak hour of travel on E. Grand River Avenue, based on the most recent rates developed by the Institute of Transportation Engineers; and
 - 4. There is no other reasonable access alternative.
 - b. *Number of driveways.*
 - 1. In commercial, industrial, or multifamily developments, access to a parcel may be required to consist of either a single two-way driveway or a pair of one-way driveways wherein one driveway is designed and appropriately signed to accommodate ingress movements and the other egress movements.
 - 2. Where parcel frontage is insufficient to provide a driveway meeting the minimum driveway width and radii standards of this ordinance, a shared driveway or other means of access may be required.
 - 3. Where a parcel has frontage along two streets, access shall be provided only along the street with the lower average daily traffic volume, unless the planning commission determines this would negatively affect traffic operations or surrounding land uses.

4. Where the property has continuous frontage of over 300 feet and the applicant can demonstrate, using the Institute of Transportation Engineers Trip Generation Manual or another accepted reference, that a second access is warranted, the planning commission may allow an additional access point in compliance with the separation requirements of this overlay district.
- c. *Shared access, frontage roads, parking lot connections and rear service drives.*
 1. Shared use of access between two or more property owners may be required where frontage dimensions are less than 300 feet, at locations with sight distance problems, and/or along roadway segments experiencing congestion or accidents. Such shared arrangement may include use of driveways constructed along property lines, connecting parking lots, or constructing frontage roads or rear service drives. In these cases, shared access of some type may be the only access design allowed.
 2. In cases where a site is adjacent to an existing frontage road, parking lot of a compatible use, or rear service drive, a connection to the adjacent facility shall be required by the planning commission, where feasible.
 3. In cases where a site is adjacent to undeveloped property, the site shall be designed to accommodate a future frontage road, parking lot connection, and/or rear service drive.
 4. The applicant shall provide the zoning administrator with irrevocable letters of agreement or access easements from all affected property owners.
 5. Frontage roads, rear service drives, and drives connecting two or more parking lots shall be constructed in accordance with the following requirements:
 - i. Pavement width shall be a maximum of 30 feet, measured from face of curb to face of curb; intersection approaches may be widened to 39 feet for a left turn lane;
 - ii. Frontage roads shall have a setback of at least 30 feet between the outer edge of pavement and the E. Grand River right-of-way line, with at least 60 feet of uninterrupted stacking space at the intersections; and
 - iii. Parking along or which backs into a frontage road shall be prohibited.
- d. *Setback from property lines.* Driveways, frontage roads, and rear service drives shall be no closer than 10 feet from a property line, except in the case of shared access overlapping property lines.
- e. *Adequate sight distance and driveway spacing.*
 1. Requirements for minimum intersection spacing or corner sight distance for driveways shall be in accordance with the American Association of State Highway and Transportation Officials (AASHTO) guidelines defined in ordinance 9 of A Policy on Geometric Design of Highways and Streets. 1994.
 2. The planning commission may require driveway locations to be adjusted where there is evidence regarding inadequate sight distance.
 3. Driveway spacing from intersections shall be measured from the centerline of the driveway to the nearest edge of the intersecting street's right-of-way line.
 4. In order to preserve intersection operations and safety, the minimum distance between a driveway and an intersecting street right-of-way shall be based on the following:

- i. For intersections experiencing congestion (peak hour operations at level of service "E" or "F" for one or more movements) or five or more traffic accidents annually, no driveway shall be constructed within 150 feet from the intersection. Where this spacing cannot be provided, driveways restricted to "right-turn in, right-turn out only" movements may be allowed, with a minimum spacing of 75 feet from the intersecting street right-of-way;
- ii. Driveways shall be spaced a minimum of 150 feet from signalized intersections. Where this spacing cannot be provided, driveways designed for "right-turn in, right-turn out only" movements may be allowed, with a minimum spacing of 75 feet from the intersecting street right-of-way; and
- iii. For locations other than those addressed by subsection i and ii above, minimum spacing requirements between a proposed commercial driveway and an intersection either adjacent to the property or on the opposite side of the street may be set on a case-by-case basis, but in no instance shall be less than 100 feet.

f. *Driveway spacing from other driveways.*

1. Driveway spacing from other driveways shall be measured from the centerline of each driveway at the point where it crosses the street right-of-way line.
2. Minimum driveway spacing from other driveways along the same side of E. Grand River Avenue shall be determined based on posted speed limit on the abutting street segment, as specified in the following table.

<i>Posted Speed (mph)</i>	<i>Minimum Driveway Spacing (feet)</i>
35	150
40	185
45	230
50	275
55	350

3. To reduce left-turn conflicts, new driveways shall be aligned with those across the street, where possible. If alignment is not possible, driveways shall be offset a minimum of 125 feet from those on the opposite side of the street. These requirements may be reduced by the planning commission in cases where compliance is not possible.

g. *Directional driveways, divided driveways, and deceleration tapers.*

1. Directional driveways, divided driveways, and deceleration tapers and/or by-pass lanes shall be required by the planning commission where they will reduce congestion and accident potential for vehicles accessing the proposed use or site. The city engineer shall determine the need for acceleration and deceleration lanes.
2. The typical driveway design shall include one ingress and one egress lane, with a combined maximum throat width of 30 feet, measured from face to face of curb.

3. Wherever the planning commission determines that traffic volumes or conditions will cause significant delays for traffic exiting left, two exit lanes will be required.
 4. For one-way paired driveway systems, each driveway shall be at least 12 feet wide, measured perpendicularly; provided, if two egress lanes are installed, the egress drive shall be at least 22 feet wide.
 5. In areas with regular pedestrian traffic, the exit and enter lanes shall be separated by a median with a maximum width of 10 feet.
 6. Driveways shall be designed with a 25-foot radius or a 30-foot radius where frequent semi-truck traffic is expected.
 - h. *Driveway storage.* Driveway storage shall be determined by the city based on traffic volumes and conditions. A minimum of 40 feet of driveway storage shall be provided to accommodate vehicle queueing. The planning commission may require a greater length based on anticipated peak hour demands. Driveway storage shall be measured from the right-of-way line.
- (2) Building Design Standards.
- a. Any side of a building facing East Grand River Avenue shall be:
 1. comprised of at least 25 percent windows on each floor;
 2. comprised of at least 25 percent of the following materials:
 - i. Brick;
 - ii. Decorative concrete block;
 - iii. Cut stone;
 - iv. Horizontal clapboard siding;
 - v. Commercial grade horizontal vinyl siding (at least 0.44 gauge); and
 - vi. Architectural sheet metal that lends to the aesthetic appearance of a structure by incorporating architectural accents or design elements.
 3. The planning commission may, in its sole discretion, deviate from the minimum percentages in the above design standards where the building design incorporates patterns and materials that provide visual interest through changes in color, material, or relief, such as the inclusion of beltlines, pilasters, recesses, and pop-outs.
 - b. Lighting must comply with the provisions of section 8-10, in addition to the provisions noted below:
 1. Off-street parking areas shall be adequately lit to ensure security and safety;
 2. Light fixtures shall use light cut-off fixtures that direct light downward. Lighting may not be attached to buildings or other structures that permit light to be directed horizontally;
 3. Lighting may only illuminate the parking lot or other areas approved for illumination by the planning commission; and
 4. Canopy lighting must be recessed into the canopy surface.
- (3) Landscaping Requirements. The site shall be landscaped and buffered in accordance with the requirements of article 10.

Section 6-5. Other Requirements.

- (a) In addition to the requirements of this article, all development in the overlay districts shall meet the applicable requirements as listed elsewhere in this ordinance or the city code of ordinances.

- (1) General Provisions, see *article 8*
- (2) Parking and Loading, see *article 9*
- (3) Landscaping and Buffering, see *article 10*
- (4) Special Use Requirements, see *articles 12 and 13*
- (5) Site Plan Review, see *article 14*
- (6) Subdivision Regulations, see *chapter 16 (city code of ordinances)*
- (7) Signs, see *chapter 28 (city code of ordinances)*

(b) The following chart provides for application and review requirements. No application shall be accepted unless in compliance with all the following requirements, unless specifically waived by the zoning officer.

Review Process	Applications
	Requirements
Site plan review	Completed application form
	Application fee/escrow fee
	Proof of ownership or interest in property
	Legal description of property
	Narrative addressing review standards of section 14-6
	Complete site plans in accordance with section 14-3
Special land uses	Same as site plan review
	Narrative addressing review standards of section 12-4 and applicable specific use standards of article 13.
Rezoning	Completed application form
	Application fee/escrow fee
	Property map showing property to be rezoned and surrounding properties and current zoning
	Proof of ownership or interest in property
	Legal description of property

ARTICLE VII – PLANNED UNIT DEVELOPMENT (PUD)

Section 7-1. Purpose.

Traditional zoning, with its segregation of uses and rigid dimensional requirements may not be suitable in all situations to best achieve the city's objectives relative to desired land use and preservation of its resources and character. In order to permit and encourage more creative and innovative land development for the benefit of the community as a whole and in furtherance of the vision and goals of the City of Portland Master Plan, PUD may be permitted as a zoning district to achieve the following purposes:

- (1) provide for flexibility in development that will result in a better project for the developer, residents, and users, as well as for the city, in general;
- (2) preserve existing natural assets, such as stands of trees, floodplain, open fields, wetlands, rivers, and the like;
- (3) accomplish a more desirable and sustainable residential environment than would be possible through the strict application of minimum requirements of this ordinance;
- (4) encourage the utilization of open space and the development of recreational amenities within reasonable walking distance of all living units;
- (5) encourage the use of lands in ways which are most in accord with their character and adaptability; and
- (6) encourage the efficient use of land by facilitating economical and suitable arrangements for buildings, streets, utilities, and other land use features.

Section 7-2. Eligibility Criteria.

At a minimum, all proposed PUDs shall meet the following criteria, as applicable, to be considered for approval:

- (1) *Location.* Planned unit developments may be located in any part of the city, subject to meeting all other applicable requirements.
- (2) *PUD Purpose.* The applicant shall demonstrate that the PUD will achieve three or more of the purposes listed in section 7-1.
- (3) *Master Plan.* The proposed use(s) within the PUD shall be consistent with the City of Portland Master Plan.
- (4) *Size.* The minimum site size for a PUD shall be based on the type of development, as shown in the following table. Churches, public or private schools, public buildings, and recreational amenities such as golf courses and health clubs, and their ancillary commercial uses such as club houses and pro shops, shall not be considered non-residential uses for purposes of this condition.

Table 7-2, Minimum Site Size	
PUD Type	Minimum Required Site Size
All residential	10 acres
Mixed residential/non-residential	20 acres
All non-residential	5 acres

- (5) *Housing Variety.* A residential PUD shall contain a variety of housing types and/or lot sizes to provide for varying lifestyles, diversity, and affordability.
- (6) *Utilities.* The PUD shall be served by public water and sanitary sewer facilities.
- (7) *Ownership and Control.* The tract(s) of land for which a PUD application is submitted must be either in single ownership or the subject of an application filed collectively by all owners of the property. Each property owner, or their agent, must sign the PUD application.
- (8) *Recognizable Public Benefit.* The PUD shall achieve recognizable and substantial benefits that may not be possible under the existing zoning classification(s). At least two of the following benefits shall be accrued to the community as a result of the proposed PUD:
- Preservation of significant natural features,
 - A complementary mix of land uses or housing types,
 - Preservation of common open space beyond the minimum required,
 - Connectivity of preserved open space with adjacent open space, greenways or public trails,
 - Coordinated redevelopment of multiple lots or parcels,
 - Removal or renovation of deteriorating buildings, sites, or contamination clean-up.

Section 7-3. Permitted Uses.

- (a) Any use permitted by right or by special land use allowed in any district may be permitted in a PUD; provided, all objectives and standards of this article are determined to be met and there is compliance with the procedures of this article.
- (b) Residential and non-residential uses may be permitted in combination to create an integrated, mixed-use development based upon the recommendations of the City of Portland Master Plan.
- (c) Approval of a PUD shall include identification of the specific uses proposed within the PUD, and only those uses so approved shall be permitted.

Section 7-4. Development Requirements.

- (a) *Minimum Lot Size and Zoning Requirements.* Lot area, width, setbacks, height, lot coverage, minimum floor area, parking, landscaping, lighting and other requirements applicable to the zoning district corresponding to the proposed use in the following table shall apply to all such uses within a PUD, unless modified in accordance with the provisions of section 7-4(b). Within a PUD, the minimum buffer requirements between dissimilar uses, as specified in section 10-5, shall not apply; provided, the planning commission or city council may require separation or buffering of uses as a condition of concept plan approval.

Zoning Requirements by Use Type	
Land Use Type	Applicable Zoning district
Detached single family residential	R-2
Two family residential	R-3
Attached single family residential	
Multiple family	
Commercial	C-2
Industry	IND
Public/Quasi-public	R-1

(b) *Modification of Minimum Requirements.* Regulations applicable to a land use in the PUD district may be altered from the requirements specified in the above table, including modification of the lot area and width, lot depth, building setbacks, height, lot coverage, signs, and parking.

1. However, a reduction in lot size shall not result in an increase in the number of dwellings otherwise permitted by the applicable zoning district, unless a density bonus is also granted in accordance with subsection (c) below. In the absence of a density bonus, land gained by the reduction in lot sizes shall be added to the open space required within the PUD.

2. The applicant for a PUD shall identify, in writing, all proposed deviations from the zoning district requirements. Modifications may be approved by the city council during the conceptual plan review stage, after planning commission recommendation. Adjustments to the minimum requirements may be permitted only if they will result in a higher quality and more sustainable development, consistent with the purpose of the PUD district, as expressed in section 7-1.

(c) *Density Bonus.* In addition to the modification of minimum requirements permitted in section 7-4 (b), the city council, after planning commission recommendation, may permit an increase in the total number of residential units otherwise allowed within a PUD. If requesting a density bonus, the applicant shall submit a parallel plan, drawn to scale, as part of the conceptual PUD plan. The parallel plan shall show a feasible layout, meeting all applicable zoning requirements of the corresponding zoning district to establish the base density that would otherwise be permitted. Consideration of a density bonus shall be based on demonstrating that the following will be achieved:

1. The appearance and construction will result in a development of high quality, as evidenced by the innovative design and primary use of building materials such as stone, masonry, wood, or hardie-plank;

2. Amenities, beyond the minimum required open space, will be provided to create a more sustainable community and desirable living environment; and

3. At least three (3) of the following will be included within the development:

a. Dedicated common open space is provided in excess of the minimum required, per section 7-4 (d).

b. One or more parking structures are proposed within a mixed-use or nonresidential PUD to meet the minimum parking requirements of this ordinance.

c. One or more LEED-certified buildings will be constructed.

d. Significant natural features, including stands of protected trees, will be preserved and/or substantial landscaping beyond the minimum requirements will be incorporated into the development.

e. Decorative pavers or similar aesthetic enhancements will be incorporated into the vehicular and pedestrian circulation system.

f. A commercial and/or office component is proposed within the PUD.

g. Roof pitches greater than 6:12 will be incorporated into the residential design.

h. Three or more public benefits, as identified in section 7-2 (8), will be achieved.

(d) *Open Space.* All PUDs shall, at a minimum, meet the following requirements:

(1) *Common open space.* All land within a development that is not devoted to a principal or accessory use, street right-of-way, or is otherwise excluded by subsection (d)(2) shall be set aside as common land for visual amenities, recreation, or conservation.

(2) *Areas not considered open space.* The following land areas shall not be considered open space for the purposes of meeting minimum open space requirements:

a. Area proposed as one-family residential lots or site condominium units;

b. Any platted lot, site condominium unit, or described parcel intended to be occupied by a building, structure, or parking lot not accessory to a designated open space area or use;

- d. The area of any street right-of-way or private street easement;
 - e. Any submerged land area of a pond, lake, or river; provided, up to 50 percent of protected wetlands and stormwater basins designed as an integral part of the landscape may be counted toward the minimum required open space;
 - f. Golf courses;
 - g. Parking and loading areas, except those exclusively associated with a recreation facility or common open space area; and
 - h. Any other undeveloped areas not meeting the intent and standards for open space stated in this section, as determined by the city council.
- (3) *Open space location.* Common open space shall be planned in locations visible and accessible throughout the development. The common open space shall be centrally located, designed to preserve natural features, located to buffer adjacent uses, and/or located to connect open spaces throughout the development; provided, at a minimum, the following areas shall be included within the open space area:
- a. Open space shall be situated to maximize the preservation of any existing site woodlands;
 - b. A minimum 50-foot wide undisturbed open space setback shall be maintained from the edge of any river or wetland; provided, the city council may permit trails, boardwalks, observation platforms, or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback;
 - c. Where adjacent land includes open space, public land, or existing or planned bike paths, open space connections shall be provided between the site and adjacent open space. Trails between adjoining open space development shall be constructed to allow future interconnection between neighborhoods; and
 - d. Where a linear dedicated open space abuts the rear yards of any lots, it shall have a minimum depth of 150 feet from such rear lot lines; provided, city council may allow a lesser dimension specifically to accommodate trail or pathway connections.
- (4) *Open space protection.* The dedicated open space shall be set aside in perpetuity by the developer through a conservation easement or other legal instrument approved by the city attorney. The conservation easement or other legal instrument shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use.
- (5) *Allowable uses.* Allowable uses of the dedicated open space shall be indicated in the conservation easement or other legal instrument which shall prohibit the following:
- a. Dumping or storing of any material or refuse;
 - b. Activity that may cause risk of soil erosion or threaten any living plant material;
 - c. Cutting or removal of live plant material, except for removal of dying, diseased, or invasive vegetation;
 - d. Use of motorized off-road vehicles;
 - e. Cutting, filling, or removal of vegetation from wetland areas; and
 - f. Use of pesticides, herbicides, or fertilizers on or within 25 feet of wetlands.
- (6) *Recreation or conservation use.* Nothing herein shall prevent the conveyance of open space to a public agency or other nonprofit entity for recreation or conservation use, if accepted by such agency or entity.
- (7) *Maintenance requirements.* Provisions for maintenance of the open space shall be provided in the PUD agreement. In the event the open space is not adequately maintained or otherwise determined by the city manager to be a public nuisance, the city may, at its sole

discretion, cause such maintenance to be performed and shall assess the maintenance costs upon the owners of the open space.

Section 7-5. Review Procedures

- (a) *Overview of PUD Review and Approval Process.* The PUD review and approval process includes the following three steps:
- (1) Pre-Application. Pre-application conference with city staff and consultants to discuss the PUD concept, eligibility criteria, and the review process.
 - (2) Concept Plan.
 - a. Planning commission reviews PUD concept plan and schedules public hearing;
 - b. Planning commission public hearing; review and recommendation on PUD rezoning and PUD concept plan; and
 - c. City council public hearing; approval of PUD rezoning and PUD concept plan, and PUD Agreement.
 - (3) Final PUD Plan.
 - a. Planning commission reviews final site plan;
 - b. Planning commission acts on final site plan.
- (b) *Preapplication meeting.*
- (1) An applicant desiring to submit an application for a PUD shall first schedule a preapplication meeting.
 - (2) The purpose of the preapplication meeting is to determine general compliance with PUD eligibility and design requirements, and to identify issues of significance regarding the proposed application.
 - (3) If the applicant proceeds with the PUD application, a report on the findings of the preapplication meeting shall be forwarded to the planning commission.
- (c) *Application.* The applicant shall prepare and submit a request for PUD rezoning, including a conceptual PUD site plan and application fees. The conceptual site plan shall comply with the requirements of section 14-3 for a preliminary plan. Incomplete applications will not be accepted and will not be processed or forwarded to the planning commission. Completed materials shall be submitted, as required, prior to the scheduled meeting at which the planning commission shall first review the request. This meeting will provide an initial opportunity to discuss the PUD concept, provide feedback, and identify additional materials that may be needed to support the proposal or address potential concerns.
- (d) *Planning commission public hearing.* Following the initial review meeting, the planning commission shall conduct a public hearing in accordance with the requirements of Zoning Act to formally review the rezoning request and conceptual PUD site plan.
- (e) *Planning commission recommendation.* The planning commission shall review the concept PUD site plan in consideration of public hearing comments; technical reviews from city staff, consultants, and applicable review agencies; and compliance with the standards and requirements of this article and ordinance. Following its review, the planning commission shall make a recommendation to the city council to approve, approve with conditions, or deny the request based on the standards of section 7-7.
- (g) *City council decision.* Following receipt of the planning commission's recommendation, the rezoning and conceptual PUD site plan shall be considered by the city council. Prior to making its decision, the council shall conduct a public hearing, notice of which shall be provided in accordance with the requirements of the Zoning Act.
- (1) Approval or approval with conditions:

- a. Upon determination that a PUD site plan is in compliance with the standards of section 7-7, other applicable requirements of this ordinance, and other applicable ordinances and laws, the city council shall approve the conceptual PUD site plan.
 - b. Approval of the conceptual PUD plan shall constitute approval of the rezoning; and the zoning map shall be changed by ordinance to indicate the zoning of the property as PUD.
 - c. The city council may impose reasonable conditions with the approval of a PUD. Conditions of any approval are attached to the land and will remain through subsequent owners. Upon receiving approval with conditions, the applicant shall submit a revised PUD conceptual site plan that demonstrates compliance with the conditions.
 - d. If the PUD is approved or approved with conditions, the applicant shall submit a PUD Development Agreement in accordance with the requirements of section 7-6.
- (2) If council determines that a PUD rezoning request does not comply with the required provisions of this ordinance or necessitates extensive revision in order to comply, the request shall be denied. Resubmittal of a denied application shall be considered a new application.
- (h) *Final PUD Plan.* Final site plan shall be submitted for review and approval to the planning commission in accordance with the site plan review provisions of article 14 of this ordinance. If a proposed PUD is to be constructed in two or more phases, final site plan approval may be considered for individual phases; provided, a complete plan for the entire development was first given conceptual plan approval and that each subsequent phase shall be subject to final site plan approval and is consistent with the approved conceptual PUD plan. The planning commission may require additional information beyond what is otherwise required if, in its judgment, more detailed information is necessary due to the size of the development; number of phases proposed; or the interrelationship of roads, utilities or drainage systems within the total site.
- (i) *Review Standards.* In addition to the site plan review standards of section 14-6, the planning commission shall determine that the final PUD plan is consistent with the approved conceptual PUD plan and satisfies all standards specified in section 7-7.

Section 7-6. Development Agreement.

The applicant shall submit an agreement stating the conditions upon which approval is based, for review and approval by the city council. The agreement, after review by the planning commission and approval by the city council, shall be entered into between the city and the applicant and be recorded with the Iona County Register of Deeds. At a minimum, the agreement shall include:

- (1) A certified boundary survey of the acreage comprising the proposed development;
- (2) The manner of ownership of the developed land and of dedicated open space and common areas, including the mechanism to protect and maintain all areas designated as common areas or open space;
- (3) Assurance that those open space and common areas shown on the plan for use by the public, users, or residents of the development will be or have been irrevocably committed for that purpose. The city may require conveyances or other instruments for this purpose;
- (4) Satisfactory provisions shall be specified for the future financing of any general improvements shown on the plan including, but not limited to, streets, utilities, stormwater management systems, landscaping, lighting, sidewalks, pathways, open space areas, and common areas which are to be included within the development. Mechanisms for on-going maintenance of such improvements shall be specified. The city council may require a performance guarantee, in accordance with the provisions of section 18-3, to assure the installation of such improvements;
- (5) Provisions to ensure adequate protection of natural features; and

- (6) A copy of the approved conceptual PUD site plan signed by the applicant and the mayor or appointed designee.

Section 7-7. Standards of Approval.

In considering a PUD request, the planning commission and/or city council, as applicable, shall find that the proposed development meets all applicable requirements of this ordinance and other city regulations, as well as the following general standards:

- (1) *Purpose of PUD.* The proposed development shall be consistent with the stated Purpose of this district, as found in section 7-1.
- (2) *Eligibility Criteria.* The proposed development shall satisfy each of the Eligibility Criteria, as stated in section 7-2.
- (3) *Master Plan.* The PUD shall be consistent with the recommended future land use patterns, goals, and relevant recommendations contained in the City of Portland Master Plan.
- (4) *Surrounding Uses.* The development shall be compatible with the existing and intended uses surrounding the subject property.
- (5) *Natural Environment.* The design and layout of the PUD shall be harmonious with the natural character of the site and surrounding area and shall employ best management practices to ensure their conservation.
- (6) *Public Facilities and Services.* The proposed development shall not place undue burden on the capacity of public facilities and services such as, but not limited to, streets, fire and police protection, water, sanitary sewer service, and drainage.
- (7) *Health, Safety and Welfare.* The PUD shall not contain uses or conditions of use that may be injurious to the public health, safety, or welfare.
- (8) *Consistent with All Applicable Standards and Requirements.* The proposed development shall conform to all applicable requirements of this ordinance, unless specifically modified and approved, as authorized by section 7-4 (b).
- (9) *Final Site Plan.* The final site plan is substantially consistent with the representations made and plans shown during the prior conceptual plan stage of approval.
- (10) *Recognizable and Substantial Benefits.* Approval of the PUD will result in a recognizable and substantial benefit to the users of the project and to the community which would not otherwise be feasible or achievable under conventional zoning districts. The development shall provide two (2) or more of the benefits specified in section 7-2 (8).

Section 7-8. Timing.

- (a) *Final site plan.* A final site plan, including all required information and details, shall be submitted to the zoning administrator within two years of the date of city council's action approving the conceptual PUD plan and rezoning. One extension of up to 12 months may be granted by the planning commission; provided the request for extension is submitted in writing by the applicant prior to the expiration of the initial two-year period. If a final site plan for at least the first phase of the project is not submitted within the specified time period or approved extension, the approved conceptual PUD plan shall become null and void and a new PUD application shall be filed and processed accordingly. Upon expiration of the conceptual plan, the planning commission or city council, at its sole discretion, may initiate rezoning of the property from PUD to its former or other zoning classification.
- (b) *Construction.* Approval of the final site plan by the planning commission shall expire 24 months after the date of that approval unless substantial construction has been commenced and is continuing. One extension of up to 12 additional months may be granted by the planning commission, if requested in writing by the applicant prior to the expiration of the initial one-year period. If meaningful construction has not commenced and been diligently carried on within the specified time period or

approved extension, the approved PUD final plan shall become null and void and a new PUD application shall be required in accordance with the requirements of section 7-5. In such case, the PUD zoning district would remain unless the city council initiates rezoning of the subject property to another zoning classification.

Section 7-9. Revisions or Deviations from Approved PUD.

(a) *Approval.* Approval of the final site plan confers upon the zoning administrator the authority to approve certain minor deviations when an applicant or landowner notifies the zoning administrator, in writing, of the proposed amendment to the approved plan, accompanied by a site plan illustrating the proposed change. The request shall be received prior to initiating any construction in conflict with the approved final plan.

(b) *Procedure.* Within 14 days of receipt of a request to amend the site plan, the zoning administrator shall determine whether the change is major, warranting review by the planning commission, or minor, allowing administrative approval, as noted in subsection (c) of this section.

(c) *Minor changes.* The zoning administrator may approve the proposed revision upon finding the change would not alter the approved design or provisions of the PUD agreement, would not reduce the area devoted to open space, and all applicable regulations of this ordinance will be met. The zoning administrator shall inform the planning commission and city council of the approval in writing.

(d) *Minor change determination.* The zoning administrator shall consider the following when determining a change to be minor:

- (1) For residential buildings, the square footage of structures may be reduced or increased by 10 percent of the originally approved area; provided, the overall density of units does not increase, the minimum square footage and parking requirements are met, and the buildings do not extend into any required open space or required setback;
- (2) Gross floor area of nonresidential buildings may be reduced or increased by up to 10 percent or 2,000 square feet, whichever is less, of the originally approved area; provided, parking requirements are met and the building does not extend into any required open space or required setback;
- (3) Change in floor plans if consistent with the character of the approved use;
- (4) Relocation of a building by up to 20 feet, if consistent with required setbacks, open space, and other requirements;
- (5) Height of buildings may be lowered;
- (6) Designated woodlands or areas not to be disturbed may be increased;
- (7) Replacement or substitution of plantings on the approved landscape plan with comparable materials of equal or better quality;
- (8) Improvements to site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing or pedestrian/bicycle paths;
- (9) Change in location, but not number, of access points to perimeter streets by no more than 50 feet and any change to interior street pattern or intersections;
- (9) Changes of building materials to another of equal or higher quality, as determined by the building official;
- (10) Grade change of up to one foot, after review by the city engineer;
- (11) Modification of entry design, sign placement or reduction in size of signs, which is consistent with the intent of the approved PUD plan;
- (12) Internal rearrangement of parking lots which does not affect the number of parking spaces or significantly alter access locations or design;
- (13) Changes to the location of accessory buildings or structures, if compliant with the applicable ordinance requirements; and

- (14) Changes required or requested by the city, county or state for safety reasons.
- (e) *Major changes.* Where the zoning administrator determines that a requested amendment to the approved site plan is major, resubmittal to the planning commission shall be required. Should the planning commission determine that the modifications are inconsistent with the approved concept PUD plan, a revised concept site plan shall be submitted according to the procedures outlined in this article, including public hearings and city council approval. In all cases, a change in use to a more intensive use than approved in the concept PUD plan shall be considered major and require resubmission of a new concept PUD plan.

Section 7-10. Existing PUDs.

PUDs in existence prior to the date of adoption of this ordinance shall conform to the prior approved final PUD plans. However, any expansion, alteration, or amendment of the approved plans or the terms of the development agreement that constitute a major change, as defined in section 7-9, or any subsequent phase for which a final site plan was not approved shall be subject to the applicable requirements of section 7-5.

Section 7-11. Appeals and Variances.

The zoning board of appeals shall have no jurisdiction or authority to consider an appeal from any PUD determination or decision or any part thereof; nor shall the board have authority to grant variances for or with respect to a PUD. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the PUD; provided, the variance does not involve alterations to open space areas as shown on the approved PUD final plan or land outside the boundary of the lot and otherwise meets the review standards applicable to consideration of variance requests.

DIVISION 3 – SITE DEVELOPMENT REGULATIONS

ARTICLE VIII. GENERAL PROVISIONS

Section 8-1. Accessory Buildings and Uses.

(a) *General requirements.*

- (1) No accessory building shall be permitted on any lot, which does not contain a main building.
- (2) Attached accessory buildings and structures shall be considered part of the main building and shall conform to the district setback requirements of the main building.
- (3) Detached accessory buildings and structures shall be a minimum of 10 feet from another building or structure.
- (4) Accessory buildings shall not be erected in any front yard; provided, if the main building on the lot is set back at least 100 feet, an accessory building may be located in the front yard, but no closer than 50 ft. from the front lot line.
- (5) No more than 30 percent of the rear yard area shall be occupied by accessory buildings.
- (6) No accessory building shall occupy any portion of a required greenbelt or buffer in any district.
- (7) Any accessory building with an area greater than 120 square feet shall be permanently constructed on a concrete slab or foundation and shall conform to all building and other applicable codes. The architectural character shall be compatible with the main building with respect to materials, design, and aesthetic quality as determined by the zoning administrator.
- (8) No accessory building shall be used in any part for residential dwelling or sleeping purposes, unless specifically permitted as an accessory dwelling.
- (9) Existing nonconforming accessory structures may be replaced on the existing footprint provided they are wholly contained within the property and meet the required front yard setback.

(b) *Detached accessory buildings and structures for residential uses.*

- (1) One detached accessory building shall be permitted on a lot occupied by a one-family dwelling, which shall not exceed the size limits of the following table based on lot size:

Lot Size (sq. ft.)	Maximum Size (sq. ft.)	Maximum Height (ft.)
10,000 or less	800	15 ⁹
10,001 – 43,560	960	18
more than 43,560	1,500	20

- (2) One additional detached storage shed, not to exceed 120 square feet in area and eight feet in height, shall be permitted. A swimming pool and cover structure shall also be permitted on a lot, subject to the requirements of this section and any other applicable ordinance.
- (3) Detached accessory buildings shall be at least three feet from any rear property line and no closer than 10 feet from any side lot line, as measured from the wall of the accessory building.

(c) *Detached accessory buildings for nonresidential uses.*

⁹ A detached garage on a lot with an existing historic home may be the same height as the home, if designed to match the architecture of the home. Proof that the home is a registered state or national historic property shall be required.

- (1) The total area of all detached accessory buildings shall not exceed 50 percent of the floor area of the main building.
- (2) Detached accessory buildings shall meet all setback requirements for main buildings for the district in which they are located; provided, in no case shall the setback be less than 10 feet from any lot line.
- (3) No detached accessory building shall exceed the permitted height for main buildings in the district in which it is located.
- (4) Guard houses may be permitted in the required front yard of an industrial district.

Section 8-2. Main Building or Principal Use.

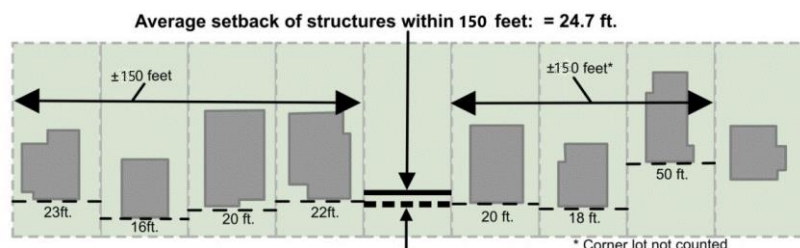
Except as may otherwise be noted in this ordinance, each parcel shall contain only one main building or principal use, except for groups of related commercial, industrial, and office buildings, and multiple-family dwellings, contained within a single, integrated development as demonstrated by sharing parking, signs, access, and other similar features which, in the opinion of the zoning administrator, form a unified function and appearance.

Section 8-3. Unlawful Buildings and Uses.

It shall be unlawful to use, occupy, or permit the use or occupancy of any building, structure, or premises, or part thereof created, erected, changed, converted, or wholly or partly altered or enlarged in its use as permitted under the terms of this ordinance, until a certificate of occupancy has been issued by the zoning administrator. The certificate shall state that the building, structure, lot, and/or use, conforms to the requirements of this ordinance. If a certificate of occupancy has not been issued or it is determined that the building, structure, lot, or use does not conform to the requirements of this ordinance, it shall not be considered a legal nonconformity.

Section 8-4. Lots and Lot Measurements.

- (a) *Minimum buildable area.* All newly created lots shall meet required setback, area, width, and depth requirements for the district in which the lot is located.
- (b) *Corner lots.*
 - (1) Each lot line abutting a public or private street shall be a front lot line, and the required setback along both lot frontages shall be a required front yard. The two remaining yards shall be side yards.
 - (2) For a corner lot with three front lot lines, the remaining lot line shall be a rear lot line.
 - (3) Required front yard setbacks shall be measured from the abutting right-of-way lines.
 - (4) The minimum lot width of a corner lot shall be determined at the shortest front lot line.
- (c) *Average setbacks.*
 - (1) In all residential districts, if 25 percent or more of all lots on one side of a street between two intersecting streets contain a main building, the minimum front yard setback shall be the average of the front yards established by the main buildings located on lots on the same side of the street within the same block that are within 150 ft. on either side of the subject property (not including corner lots where the front setback is on the intersecting street); provided:



- a. If the average results in a setback greater than the established front setbacks of the main buildings on both lots adjacent to the subject property, the required setback shall be the average of the established setback of the adjacent lots.
- b. If less than 25 percent of the lots on one side of a street between two intersecting streets contain a main building, the required front setback shall be as required for the zoning district.
- c. For a through lot, the setback averaging shall only apply along the street on which the property is addressed. The required setback along the opposite street shall be the minimum required front setback as required for the zoning district.
- (2) In no case shall the required front setback resulting from the application of this subsection be less than 10 feet.
- (d) *Cul-de-sac lots.*
 - (1) Cul-de-sacs shall meet the minimum design standards of the city.
 - (2) A cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line.
 - (3) The minimum lot width for a lot on a cul-de-sac shall be measured along a line drawn at the minimum front setback line where it intersects the side lot lines.
 - (4) A lot on a cul-de-sac shall have not less than 40 feet of lot frontage as measured along the front lot line.

Section 8-5. Height Exceptions.

The height limitations of this ordinance shall not apply to spires, belfries, cupolas, antennae, water tanks, ventilators, chimneys, or other similar appurtenances usually required to be placed above the roof level and not intended for human occupancy. Parapet walls extending no more than four feet above a flat roof shall be excluded from the height measurement.

Section 8-6. Encroachments into Required Yards.

The following building elements and appurtenances may encroach into or over a required setback, as specified in the following table:

Encroachments into Required Yard Setbacks			
Type	Allowed Encroachment into a Setback		
	Front Yard	Side Yard	Rear Yard
Accessory structures, residential, detached	See <i>section 8-1</i>		
Accessible ramps, wheelchair lifts and similar structures	Least encroachment necessary to meet state or federal requirements, but no more than 8 ft.; must maintain a 3-foot side yard setback		
Air conditioning units, generators, and other mechanical equipment	None	3 ft.	3 ft.
		No more than 5 ft. from the building	
Arbors, trellises and pergolas (attached to principal building)	5 ft.	3 ft.	10 ft.
Awnings and canopies			
Balconies	5 ft.	None	10 ft.
Bay windows	3 ft.	3 ft.	3 ft.
Chimneys	3 ft.	3 ft.	3 ft.
Eaves and gutters	1 ft.	1 ft.	1 ft.

Encroachments into Required Yard Setbacks			
Type	Allowed Encroachment into a Setback		
	Front Yard	Side Yard	Rear Yard
Fences and walls	See <i>section 8-8</i>		
Flagpoles	Permitted up to 6 ft. from all lot lines		
Light poles (not including ground-mounted lights)	Permitted up to 6 ft. from all lot lines		
Paved patios and similar at-grade structures (not including driveways and sidewalks), un-roofed and unenclosed	10 ft.	Up to 3 ft. from a side lot line	Up to 15 ft. from a rear lot line
Porches, decks, and stoops, uncovered and unenclosed	5 ft.	none	10 ft.
Stairways (not including steps to main floor entry) and below-grade stairwells	None	3 ft.	10 ft.
Swing sets and similar play structures	None	Up to 3 ft. from a side lot line	Up to 3 ft. from a rear lot line
Window wells and egress windows, below grade	3 ft.	3 ft.	3 ft.

Section 8-7. Home Occupations.

- (a) Home occupations shall be approved by the zoning administrator, who shall issue a certificate of occupancy specifying the use, size, and the specific measures by which compliance with this section will be maintained and the requirements of the residential district are met.
- (b) Only members of the family residing in the home shall be engaged in the home occupation.
- (c) The use of the dwelling unit or an accessory building for the home occupation shall be clearly incidental and subordinate to its use for residential purposes. The area devoted to the home occupation shall not exceed 25 percent of the floor area of the dwelling unit or 500 square feet, whichever is less, regardless of whether the home occupation is conducted partly or wholly in an accessory building.
- (d) There shall be no change in the outside appearance of the building that would indicate the presence of a home occupation or depart from the residential character of the dwelling, except for a home occupation sign that complies with the city sign ordinance.
- (e) There shall be no sale of products or merchandise which require customers to come to the home.
- (f) There shall be no outdoor, on-site storage of materials, equipment, or accessory items and/or display of materials, goods or supplies used in the conduct of the home occupation.
- (g) The home occupation shall not generate additional traffic, parking shortages, or otherwise adversely affect the pedestrian or vehicular circulation of the area. The following factors shall be considered by the zoning administrator to determine whether traffic may have an adverse impact on a neighborhood:
 - (1) Whether the subject parcel is located at the entrance or the interior of a residential development or abuts a collector or arterial street rather than a local streets all as listed in the City of Portland Master Plan;
 - (2) Whether the nature of the proposed home occupation requires scheduled appointments or whether traffic volumes may be higher at certain times of the day or days of the week;

- (3) Whether traffic volumes may vary on a seasonal basis; and
- (4) Whether the home occupation could be conducted in a manner that reduces traffic generated in the area.
- (h) Parking for vehicles associated with the home occupation shall be provided off the street. No commercial vehicles exceeding a rated capacity of one ton may be parked on the premises.
- (i) No equipment or process shall be used in the home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in the line voltage off the premises.
- (j) No more than two customers or clients or students shall be on the premises at any one time.
- (l) All building, housing, fire and other local or state codes and ordinances shall be adhered to for home occupations.
- (m) A registered primary caregiver, as defined by and in compliance with the General Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133 (the "General Rules"), the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq (the "Act"), and the requirements of this section, shall be allowed as a home occupation. Nothing in this section, or in any companion regulatory section adopted in any other provision of this article, is intended to grant, nor shall they be construed as granting immunity from prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with the act and the general rules. Also, since federal law is not affected by the act or the general rules, nothing in this section, or in any companion regulatory section adopted in any other provision of this section, is intended to grant, nor shall they be construed as granting immunity from criminal prosecution under federal law. The act does not protect users, caregivers, or the owners of properties on which medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:
 - (1) The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the general rules of the Michigan Department of Community Health, as they may be amended from time to time.
 - (2) A registered primary caregiver must be located outside of a 1,000-foot radius from any school or library, as defined by the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7410, to insure community compliance with federal "Drug-Free School Zone" requirements.
 - (3) Not more than one primary caregiver shall be permitted to service qualifying patients on a parcel.
 - (4) Not more than five qualifying patients shall be assisted with the medical use of marihuana within any given calendar week.
 - (5) All medical marihuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the city building official and the city police department.
 - (6) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting or watering devices that support the cultivation, growing or harvesting of marihuana are located.
 - (7) If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11:00 pm to 7:00 am, local time, shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.

- (8) That portion of the residential structure where energy usage and heat exceeds typical residential use, such as a grow room, or where the storage of any chemicals such as herbicides, pesticides and fertilizers occurs, shall be subject to inspection and approval by the city building official or fire department to ensure compliance with applicable provisions of the fire code.
- (9) No signage is permitted for a home occupation as a registered primary caregiver.

Section 8-8. Fences and Walls.

- (a) No solid fence, wall, or planting screen greater than 30 inches in height as measured from the natural grade, shall be located within the clear vision area, as required in section 8-21.
- (b) Fencing which is essentially open (e.g., wrought iron, chain link, split rail, or picket fence) may be up to 48 inches high in the front yard. Stockade fence and masonry walls shall be limited to 36 inches high in the front yard.
- (c) In non-residential districts, a wall, fence, or yard enclosure may be up to eight feet high in a side or rear yard.
- (d) In residential districts, fences may be up to six feet high in the side or rear yard.
- (e) All fences erected or caused to be erected by individual property owners shall be located on their property.
- (f) No fence, wall, or other barrier shall be placed within a street right-of-way.
- (g) No electrically charged fences are permitted. Barbed wire may be permitted by the planning commission in non-residential districts for security purposes where the nature of the use is such that added security or protection is warranted.
- (h) No fence or wall shall be erected which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which will interfere with access by the first responders.
- (i) All fences and walls shall be maintained in sound structural condition. Failure to maintain the fence or wall shall be considered a violation of this ordinance.
- (j) Fences constructed of wood or other material having one finished side shall be erected with that side facing the adjoining street or abutting property.

Section 8-9. Access to Streets.

All lots and parcels created after the effective date of this ordinance shall have frontage upon and be accessed from a public or approved private street right-of-way. Frontage shall be the minimum required for the zoning district in which the property is located and measured along the right-of-way line.

Section 8-10. Lighting.

- (a) Lighting on any site shall be shielded to reduce glare and positioned to direct the light away from any residential district or use.
- (b) Except as otherwise specified, light fixtures shall be no higher than 30 feet, measured from the ground to the top of the fixture. All light fixtures shall be cut-off fixtures that direct light downward and prevent light spill onto adjacent property.
- (c) For parking lots containing more than 500 spaces, the planning commission may permit a taller light fixture in selected locations within the parking lot where existing or planned residential areas will not be affected.
- (d) Lighting attached to buildings or other structures shall be directed downward and not permit light to be emitted horizontally.
- (e) Lighting on the underside of a canopy shall be recessed into the canopy and shall not permit light to be emitted horizontally or project onto abutting streets.

Section 8-11. Private Swimming Pools.

- (a) Every person owning land on which there is located a swimming pool, spa, hot tub, or similar device (below ground or above ground) which contains 24 inches or more of water in depth at any point, shall ensure that such device is made inaccessible to small children by means of a fence or enclosure surrounding the device or due to the height of the side walls, as approved by the zoning administrator.
- (b) Side walls, fences, or enclosures, including the gates, shall not be less than four feet or greater than six feet above grade. All gates shall be self-latching with latches placed no less than four feet above grade or otherwise made inaccessible from the outside to small children.
- (c) Swimming pools, spas, hot tubs, and similar devices shall be located at least 10 feet from any lot line and shall not be permitted within any front yard.
- (d) No pool, spa, hot tub, or similar device regulated by this section shall be constructed, installed, enlarged, or altered until a zoning compliance permit has been obtained from the zoning administrator.
- (e) No lights shall be erected, operated, or maintained in connection with a swimming pool, spa, hot tub, or similar device in such a manner as to create light spill or glare onto any adjoining property.

Section 8-12. Regulations Applicable to One-Family Dwellings

Any one-family dwelling constructed and erected on a lot or parcel, outside a state-licensed manufactured home community, shall comply with all of the following requirements:

- (1) The dwelling shall meet the minimum square footage requirements for the district in which it is located.
- (2) Design features:
 - a. The exterior length across any front, side, or rear elevation shall be a minimum of 24 feet for at least 67 percent of that elevation, measured from corner to corner.
 - b. Dwellings shall have a minimum roof pitch of four inches to one foot of rise.
 - c. All dwellings shall have a roof overhang of not less than six inches, or alternatively with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.
 - d. Where elevation differences make it necessary, the dwelling shall contain permanently attached steps connected to exterior door areas or to porches connected to the door areas.
 - e. Additions to the dwelling shall be constructed in accordance with building code requirements and approved by the city building official. Exterior materials shall match or complement, and be of consistent quality, with that of the existing dwelling.
 - f. The dwelling shall contain interior storage areas equal to 10 percent of the square footage of the dwelling or 100-square feet, whichever is less.
 - g. The dwelling unit shall be no greater in length than 2½ times its width.
 - h. The dwelling unit shall have at least two exterior doors, with one being in either the rear or the side of the dwelling unit.
 - i. Driveways and off-street parking spaces shall be paved with a concrete or asphalt surface in accordance with city specifications; provided, the zoning administrator may approve the use of pervious pavers where the materials are determined to be of comparable durability to concrete or asphalt.
- (3) The dwelling shall conform to the state construction code and all other pertinent construction and fire codes. Additionally, all dwellings shall meet or exceed applicable roof snow load and strength requirements.
- (4) In the case of a manufactured home, all construction, plumbing, electrical apparatus, and insulation within and connected to the manufactured home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the

United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time the standards may be amended or restated.

(5) The dwelling shall be placed upon and secured to a permanent foundation meeting the requirements of the state construction code. The area between the finished grade of the lot and the structure shall have a wall of the same dimensions as the dwelling and constructed of materials and type as required in the applicable code for one-family dwellings. In the event the dwelling is installed pursuant to the manufacturer's set-up instructions, the dwelling shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the state manufactured home commission.

(6) If a dwelling has wheels, towing mechanisms, or undercarriages, they shall be removed.

(7) All dwellings shall be connected to sanitary sewer and public water pursuant to the City of Portland Municipal Standards.

(8) All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity.

a. Compatibility of design and appearance shall be determined in the first instance by the zoning administrator upon review of the plans (which may include elevation sketches or photographs) submitted for a particular dwelling.

b. Any determination of compatibility shall be based upon the standards set forth in this section as well as the character, design, and appearance of one or more dwellings on individual lots or parcels within 300 feet of the subject property.

(9) The requirements of this section shall not be construed to prohibit innovative design concepts involving elements such as solar energy, view, unique land contour, or relief from the common or standard designed home.

(10) The foregoing requirements shall not apply to manufactured homes located in a state licensed manufactured home community, except as required by state or federal law or otherwise specifically required in any city ordinance pertaining to these communities.

Section 8-13. Site Condominiums.

(a) *Site condominium approval required.*

(1) No improvements for a site condominium may be commenced until approval has been given in accordance with this section.

(2) Site condominiums shall comply with the Condominium Act, in addition to compliance with this section and other applicable provisions of this ordinance.

(3) If site condominium approval is requested in connection with an application for approval of a planned unit development, then the site condominium may be reviewed in accordance with the applicable planned unit development procedures.

(b) *Application requirements.* An application for site condominium approval shall include the following information:

(1) A site condominium plan which includes the documents and information required by Section 66 of the Condominium Act, and which includes the following information to the extent not included in such plans:

a. The dimensions of each site condominium unit; the dimensions of the building envelope for each building that is a detached condominium or that contains attached condominium units.

b. Approval or tentative approval of the proposed design and location of the entrance to the site condominium from the city, County Road Commission, or Michigan Department of Transportation, as applicable.

- c. The use and occupancy restrictions and maintenance provisions for all general and limited common elements, and the locations thereof, that will be included in the master deed.
 - d. A storm water drainage plan, including all lines, swales, drains, basins, and other facilities and easements granted for installation, repair, and maintenance of all drainage facilities.
 - e. A utility plan showing the location of all water supply mains and sanitary sewer mains, if any, and easements for the installation, repair and maintenance of utilities.
 - f. A narrative describing the overall objectives of the proposed site condominium.
 - g. A narrative describing the proposed method of providing potable water supply, waste disposal facilities, and public and private utilities.
 - h. A street construction, paving, and maintenance plan for all streets within the site condominium.
 - i. A description and summary of each phase of the site condominium development, if phasing is proposed.
- (2) Such other information as the planning commission or city council may reasonably request in their review of the proposed site condominium.
- (c) *Review procedures.*
- (1) The application and the required number of copies of the preliminary plan of the site condominium together with the required application fee and zoning escrow deposit, shall be submitted to the zoning administrator.
 - (2) Upon the administrator's determination that the preliminary plan is complete, the application and the plan shall be forwarded to the planning commission for consideration.
 - (3) After reviewing the preliminary site condominium plan, the planning commission shall approve a resolution stating the Commission's findings concerning the preliminary plan and stating its recommendation to approve, deny, or approve with conditions.
- (d) *Final site condominium review.*
- (1) After receiving the planning commission's recommendations on the preliminary plan, the applicant shall submit to the zoning administrator the required number of copies of a final site condominium plan which complies with the requirements of this section and the recommendations of the planning commission.
 - (2) The final site condominium plan shall incorporate the terms and conditions, if any, approved by the planning commission in its review of the preliminary plan; provided, however, that if any of the planning commission's terms and conditions are not included in the final plan, the applicant shall specify in writing which of them have not been included, and the reasons for the exclusion(s).
 - (3) The final site condominium plan, together with any written statement by the applicant as to the non-inclusion of planning commission terms and conditions, shall be forwarded by the zoning administrator to the city council.
 - (4) After receiving the final condominium or site condominium plan, the recommendations of the planning commission and any written statements by the applicant, the city council shall review, and shall by resolution approve, deny or approve with conditions the final plan in accordance with the standards in section 8-13(e).
 - (5) The resolution of the city council approving, denying or approving with conditions the final site condominium plan may include conditions required to assure compliance with the requirements of this section, other applicable provisions of this ordinance and the Condominium Act.

- (6) All terms and conditions included by the planning commission and city council in their respective approvals of a site condominium shall be incorporated in the recorded master deed, or shall otherwise be reflected in the final site condominium plan, when recorded as a part of the master deed.
- (e) *Standards for approval.* A site condominium shall comply with all the following requirements:
- (1) The plan shall comply with the applicable requirements of this section.
 - (2) The proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layout and design, and other aspects of the proposed site condominium, shall comply with the Condominium Act and other applicable laws, ordinances and regulations.
 - (3) Each site condominium unit and each building envelope adjacent to a building that is a detached condominium shall comply with all applicable provisions of the zone district in which the condominium or site condominium is located, including minimum lot area; minimum lot width; minimum required front, side and rear yards; maximum building height; and other applicable land use requirements in this ordinance.
 - (4) If a site condominium is proposed to have public streets, the streets shall be paved and developed to the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets as required by the city.
 - (5) Private streets may be permitted to provide access to and throughout a site condominium; provided such private streets comply with all requirements of the city.
 - (6) Provisions in the master deed and condominium bylaws shall obligate the developer and/or condominium association to assure that all the private streets are regularly maintained, repaired, and snowplowed to assure that they are safe and convenient for travel at all times.
 - (7) The site condominium shall be served by public water and sanitary sewer systems. If such public systems are not reasonably available, approved private water supply wells, septic tanks and drain fields or a private community sanitary sewer system and/or community water supply system may be authorized by the city.
 - (8) Street lights may be required in any site condominium development.
 - (9) Sidewalks may be required to be installed in site condominiums, in accordance with standards and specifications specified in the resolution of approval of the condominium or site condominium.
- (f) *Construction in compliance with approved plan.* No buildings or structures in a site condominium shall be built nor shall any other site improvements be made except in compliance with the final site condominium plan as approved by the city council, including all conditions of approval.
- (g) *Completion of improvements.*
- (1) No building permit or occupancy permit for site condominium unit in an approved site condominium development shall be issued until construction of all required improvements has been completed and approved by the city, or unless acceptable security for the completion of such improvements has been provided, to the satisfaction of the city.
 - (2) Upon completion of all required improvements, a complete as-built plan for all required improvements in the development shall be promptly submitted to the city, to the attention of the zoning administrator.
- (h) *Expandable or convertible condominium developments.* Approval of a final site condominium plan shall not constitute approval of expandable or convertible portions thereof unless the expandable or convertible areas are specifically reviewed and approved by the planning commission and city council in compliance with the procedures and requirements of this section.
- (i) *Revisions of final site condominium plan.*

- (1) Changes to an approved site condominium for which a plan has been approved are subject to this section.
- (2) Any change which constitutes an exempt change as described below shall not be subject to review by the planning commission, but a copy of an exempt change shall be submitted to the zoning administrator; provided, however, that the zoning administrator shall determine whether the proposed change is an exempt change and shall notify the applicant accordingly. An exempt change shall include only the following:
- a. A change in the name of the site condominium; a change in the name of a street within the site condominium; or a change in the name of the developer.
 - b. Any other change in the site condominium which, as determined by the zoning administrator, does not constitute a major or minor change or will not otherwise change the site configuration, design, layout, topography or any other physical aspect of the land, buildings or structures in or proposed for the site condominium.
- (3) Any change which constitutes a minor change shall be reviewed and approved by the zoning administrator, but in the discretion of the administrator, any such minor change may be referred to the planning commission for a decision. A minor change means only the following minor changes in the site configuration, design, layout, or topography of a site condominium (or any portion thereof):
- a. A decrease in the number of site condominium units;
 - b. A reduction of less than 10 percent in the area of the building envelope for any building that is a detached condominium or that contains attached condominium units, provided that the reduction does not result in the building envelope comprising less than the required minimum lot area, having less than the required minimum lot width or having building setbacks less than the minimum required building setbacks specified for the zone district in which the condominium is located.
 - c. A reduction of less than 10 percent in the area of a site condominium unit, provided that the reduction does not result in the site condominium unit having less than the required minimum lot area, having less than the minimum lot width or having building setbacks less than the minimum required building setbacks specified for the zone district in which the site condominium is located.
 - d. A reduction of less than 10 percent in the total combined area of the general common elements of the site condominium, but any such reduction shall not result in noncompliance with any other applicable requirement, including any requirement for minimum open space areas.
 - e. A reduction of less than 10 percent in the total combined area of the limited common elements of the site condominium.
 - f. Any other minor change in the site configuration, design, layout, topography or other aspect of the site condominium which, as determined by the zoning administrator, does not constitute a major change, and which would not be material or significant in relation to the entire condominium or site condominium.
- (4) Any change which constitutes a major change shall be reviewed by the planning commission and the city council, as provided in this section for the original review and approval of site condominiums. Major change means a substantive change in the site configuration, design, layout, or topography of a site condominium (or any portion thereof), including, but not limited to, any change that could result in:
- a. An increase in the number of condominium or site condominium units.
 - b. Any other change in the site configuration, design, layout, topography, or other aspect of the site condominium, including, without limitation, a change in the location

of streets and utilities, or in the size, location, area, or the horizontal or vertical boundaries of a site condominium unit, and which is determined by the zoning administrator to constitute a major change in the site condominium.

(j) *Incorporation of approved provisions in master deed.* All provisions of an approved final site condominium plan shall be incorporated by reference in the master deed for the site condominium. The master deed shall be reviewed by the city attorney, prior to recording, and it shall be subject to the attorney's approval, consistent with this section and the city's approval of the site condominium. A copy of the master deed, as recorded with the county register of deeds, shall promptly be submitted after recording to the city, to the attention of the zoning administrator.

Section 8-14. Temporary Buildings, Structures, and Uses.

(a) Temporary buildings, structures, and uses may be placed on a lot or parcel and used only under the following conditions, as authorized by a permit issued by the zoning administrator.

(1) Construction buildings and structures, including trailers, incidental to construction work on a lot; provided:

a. Construction buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment; for construction management and supervision offices; and for temporary on-site sanitation facilities, related to construction activity on the same lot or parcel. An enclosed temporary structure for sanitation facilities is required on all construction sites; and

b. Construction buildings and structures shall be removed from the lot within 15 days after an occupancy permit is issued by the zoning administrator for the permanent structure on such lot, or within 15 days after the expiration of a building permit issued for construction on the lot, whichever occurs first.

(2) Sales offices or model homes may be placed on a lot or parcel; provided:

a. The location of the office is specified in the permit;

b. The permit shall be valid for a period of up to one year. A temporary permit may be renewed by the zoning administrator for up to two successive 12 month periods or less, at the same location if the office is still incidental and necessary; and

c. Only transactions related to the development in which the structure is located shall be conducted within the structure. General offices for real estate, construction, development, or other related businesses not associated with the project shall not be permitted.

(3) Temporary structures related to seasonal retail sales may be placed on C-1 and C-2 zoned property for up to 30 days without a permit, subject to the standards set forth in section 8-14(b)(3).

(4) Temporary storage units may be placed on a lot or parcel; provided, a permit is obtained from the zoning administrator and the following requirements are met:

a. At least 72 hours prior to the initial delivery of a temporary storage unit or units, the property owner, occupant of the premises (if not the owner), or storage unit supplier shall register the placement of the storage unit with the zoning administrator; provided, however, such registration shall not be required if the storage unit is removed within 72 hours of its delivery. Registration shall include:

1. Completing the required application form and providing the property owner's or occupant's name (if not the owner), number and size of the temporary storage units to be registered, the address at which the storage unit(s) will be placed, delivery date, removal date and a sketch illustrating the location and placement of the storage unit(s);

2. Written approval of the application by the zoning administrator.
3. The effective date of the registration shall be the date of the zoning administrator approval.
- b. The storage unit shall only be placed on the property in compliance with the following requirements:
 1. It shall be unlawful to place or permit the placement of a temporary storage unit on property located within the city unless it is registered with the zoning administrator, as required in subsection (4)a, above.
 2. Temporary storage units shall only be placed upon or within a driveway or a parking area or, if access exists at the side or rear of the lot, the side or rear yard.
 3. No temporary storage unit shall be placed upon or within public property or a public place, including without limitation, a street, sidewalk, or right-of-way
 4. The temporary storage unit shall not be located at the registered address for more than 30 consecutive days, including the days of delivery and removal.
 5. Each lot is limited to a maximum of one registration per six month period.
 6. The temporary storage unit shall not exceed eight feet in height, eight feet in width and 16 feet in length.
 7. The temporary storage unit shall be secured in a manner that does not endanger the safety of persons or property in the vicinity of the unit.
 8. The temporary storage unit shall be maintained in good condition, free from evidence of deterioration, weathering, discoloration, graffiti, rust, ripping, tearing or other holes or breaks.
 9. No temporary storage unit shall be used for human occupancy or to store solid waste, construction debris, demolition debris, business inventory, commercial goods, goods for property other than the property where the storage unit is located, or any other illegal or hazardous material. Upon reasonable notice, the zoning administrator may inspect the contents of any temporary storage unit at any reasonable time to ensure compliance with these requirements.
 10. Any temporary storage unit which is not removed at the end of the time for which it may lawfully remain in place, may be removed by the city immediately, without notice, and the cost of such removal may be assessed against the property on which the unit was located.
 11. A sign identifying the storage unit supplier, mounted on the temporary storage unit, shall not require a sign permit; provided, the storage unit is in compliance with the applicable provisions of this section and all other applicable ordinances.

(b) Administration of temporary buildings, structures, and uses.

- (1) The zoning administrator may require a performance guarantee per section 18-3 in an amount equal to the estimated cost of removing any temporary structure.
- (2) No temporary building or structure shall be used as a dwelling.
- (3) All temporary uses shall meet the following standards:
 - a. All temporary buildings, structures, and uses shall be located within the lot or parcel for which the permit was issued;

- b. The location of the temporary building, structure, or use on the property shall be such that potential adverse effects on surrounding properties such as traffic, ingress/egress, lighting, noise, dust, and odor can be minimized or mitigated;
- c. Off-street parking areas shall be provided on-site or in a proximate location to accommodate peak worker, visitor, and/or customer traffic. The location of such parking shall be subject to approval by the zoning administrator. Entrance and exit drives shall be laid out to minimize congestion and conflicts with established traffic patterns in the vicinity;
- d. Signs shall conform with the city's sign ordinance; and
- e. Lighting shall be arranged, directed, and controlled to prevent a nuisance to neighboring property owners.

Section 8-15. Dumpsters and Outdoor Trash Containers.

- (a) Outdoor trash containers or dumpsters exceeding 150-gallon capacity shall be permitted only in the nonresidential districts and for multiple-family and nonresidential uses within residential districts; provided, they may be permitted on any property during active construction projects.
- (b) Adequate access shall be provided to the containers for truck pickup. Such access shall not conflict with the use of off-street parking spaces or access to main buildings.
- (c) The trash container or dumpster shall be fully enclosed by a solid, ornamental screen wall or fence, not exceeding six feet in height, including a solid access gate. Trash and other disposal materials shall not be visible from outside of the screen wall or fence.
- (d) The container or containers, screen wall, fence, and gate shall be maintained in a neat and orderly manner, free from loose rubbish, wastepaper, and other debris.

Section 8-16. Grading, Excavation, Filling, and Clearing.

- (a) Review and approval of a site plan by the zoning administrator, in accordance with section 14-4, shall be required for the following site activities:
 - (1) clearing vegetation and trees from a vacant site of over one-quarter acre (10,890 sq. ft.); and
 - (2) grading, excavation, filling, soil removal, and the creation of ponds involving more than 25 cubic yards of soil.
- (b) The zoning administrator may, in the zoning administrator's sole discretion, require a site plan review for fill projects of fewer than 25 cubic yards if there is reason to believe such fill activity will adversely affect adjacent properties with respect to flooding, stormwater runoff, erosion, or similar impacts.
- (c) Grading or clearing vegetation for the purpose of preparing a lot or parcel for building construction shall not be permitted, prior to receipt of a building permit for construction of a main building on the property.
- (d) Any activity regulated by this section shall also be subject to applicable county and state regulations.

Section 8-17. Allocation of Lot Area and Depth of Lots.

- (a) No portion of a lot shall be counted more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.
- (b) The depth of any lot or parcel, created after the effective date of this ordinance, shall not exceed three times its width.

Section 8-18. Marihuana Establishments.

- (a) Marihuana establishments, as authorized by and defined in the Michigan Regulation and Taxation of Marihuana Act (the "Act"), are prohibited in all zoning districts and shall not be permitted as home occupations under section 8-7 of this ordinance. This prohibition does not apply to a registered primary care giver operating a home occupation in accordance with the provisions of section 8-7(m).
- (b) No use that constitutes or purports to be a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter or any other type of marihuana related business authorized by the Act, that was engaged in prior to May 1, 2023, shall be deemed to have been a legally established use under the provisions of the city code of ordinances; that use shall not be entitled to claim legal nonconforming status.
- (c) Violations of this section are subject to the violations and penalties pursuant to section 18-4 of this ordinance and may be abated as nuisances.
- (d) This section does not supersede rights and obligations with respect to the transportation of marihuana by marihuana-secure transporters through the city to the extent provided by the Act.

Section 8-19. Small Wireless Communication Facilities.

- (a) *Purpose.* The purpose of this section is to regulate the use of land for small wireless communications facilities in conformance with the Small Wireless Communication Facilities Deployment Act, Act No. 365 of the Public Acts of 2018 (the "Act"). In doing so, the City (the "authority") wishes to ensure the reasonable and fair control and management of public rights-of-way, support new technology, avoid interference with right-of-way use, and protect the public, health, safety, and welfare.
- (b) Unless otherwise defined by this section, words shall have the meanings as set forth in the Act.
- (c) The activities set forth in section 15(5) of the Act are exempt from zoning review:
 - (1) The replacement of a small cell wireless facility with a small cell wireless facility that is not larger or heavier, in compliance with applicable codes.
 - (2) Routine maintenance of a small cell wireless facility, utility pole, or wireless support structure.
 - (3) The installation, placement, maintenance, operation, or replacement of a micro wireless facility that is suspended on cables strung between utility poles or wireless support structures in compliance with applicable codes.
- (d) A wireless provider may, as a permitted use not subject to zoning review or approval (except that an application for a permitted use is still subject to approval by the authority pursuant to section 15 of the Act), collocate small cell wireless facilities and construct, maintain, modify, operate, or replace utility poles in, along, across, upon, and under the right-of-way. Such structures and facilities shall be constructed and maintained so as not to obstruct or hinder the usual travel or public safety on the right-of-way or obstruct the legal use of the authority's right-of-way or uses of the right-of-way by other utilities and communications service providers. Both of the following apply:
 - (1) A utility pole in the right-of-way installed or modified on or after the effective date of the Act shall not exceed 50 feet above ground level, unless a taller height is agreed to by the authority and is subject to the special land use process.
 - (2) A small cell wireless facility in the right-of-way installed or modified shall not extend more than five feet above a utility pole or wireless support structure on which the small cell wireless facility is collocated.
- (e) Per the Act, the authority requires zoning approval for certain activities that take place within or outside the public right-of-way that are not a permitted use under section 13(5) of the Act and section 8-19(d) which shall hereby be a special land use:
 - (1) The modification of existing or installation of new small cell wireless facilities.

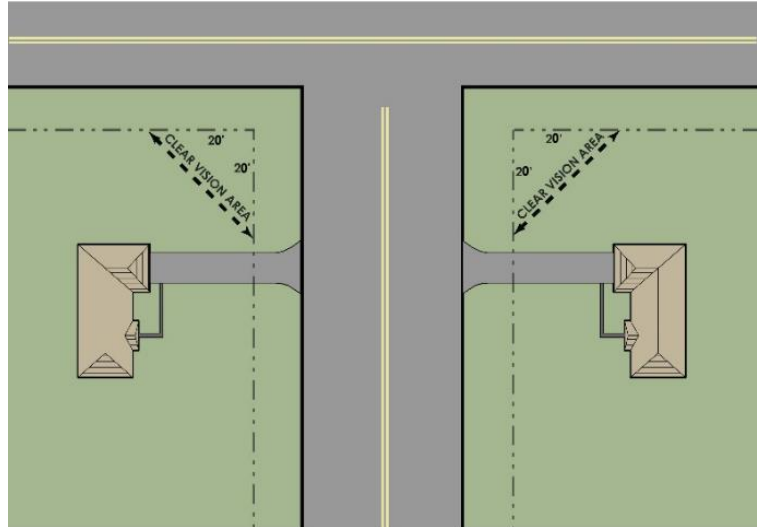
- (2) The modification of existing or installation of new wireless support structures used for such small cell wireless facilities.
- (f) Applications under section 8-19(e) shall be submitted as required by article 13 of this ordinance.
- (g) Along with applicable zoning criteria, the authority shall not deny an application unless all of the following apply:
 - (1) The denial is supported by substantial evidence contained in a written record that is publicly released contemporaneously.
 - (2) There is a reasonable basis for the denial.
 - (3) The denial would not discriminate against the applicant with respect to the placement of the facilities of other wireless providers.
- (h) The review is also subject to the following:
 - (1) An applicant's business decision on the type and location of small cell wireless facilities, wireless support structures, or technology to be used is presumed to be reasonable. This presumption does not apply with respect to the height of wireless facilities or wireless support structures. The authority will consider the height of such structures in its zoning review but shall not discriminate between the applicant and other communications service providers.
 - (2) The authority shall not evaluate or require an applicant to submit information about an applicant's business decisions with respect to any of the following; provided, requirements regarding the appearance of facilities, including those relating to materials used or arranging, screening, or landscaping, shall be reasonable:
 - a. The need for a wireless support structure or small cell wireless facilities.
 - b. The applicant's service, customer demand for the service, or the quality of service.
 - (3) Special land use criteria shall be used in the review of the applications under section (e) herein. The planning commission may consider spacing, setback, and fall zones that are substantially similar to those of other commercial structures. The planning commission may also consider aesthetics as it relates to the area of the proposal. The authority shall publish reasonable aesthetics criteria within a reasonable time in order to effectuate the consideration of aesthetics.
- (i) The application fees under this section shall be as follows:
 - (1) \$1,000.00 for a new wireless support structure or modification of an existing wireless support structure.
 - (2) \$500.00 for a new small cell wireless facility or modification of an existing small cell wireless facility.
- (j) Within one year after a zoning approval is granted, a wireless provider shall commence construction of the approved structure or facilities that are to be operated for use by a wireless services provider unless the authority and the applicant agree to extend this period or the delay is caused by a lack of commercial power or communications facilities at the site. If the wireless provider fails to commence the construction of the approved structure or facilities within the time required pursuant to section 15(2)(l) of the Act, the zoning approval is void, and the wireless provider may reapply for a zoning approval.
- (k) The authority may revoke a zoning approval, upon 30 days' notice and an opportunity to cure, if the permitted small cell wireless facilities and any associated wireless support structure fail to meet the requirements of the approval, applicable codes, or applicable zoning requirements.
- (l) If the Act becomes ineffective or is modified due to court action or otherwise, this section shall conform to the court order or amendment or in the absence of the Act the authority may implement reasonable procedures as the authority deems appropriate to process applications.

Section 8-20. Front Yard Setbacks.

- (a) All yards abutting a public or private street right-of-way shall be considered front yards for building setback purposes.
- (b) In the case of corner or through (double-frontage) lots, each yard abutting a public or private street right-of-way shall be considered a front yard for building setback purposes.

Section 8-21. Clear Vision Corner.

No fence, wall, screen, or planting shall be erected or maintained above a height of 36 inches from the ground within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two points located on those intersecting right-of-way lines 20 feet from the point of intersection of the right-of-way lines.

**Section 8-22. Vehicle Repairs in Residential Districts.**

- (a) The repair, restoration, or maintenance of motor vehicles in any residential district shall only be permitted when such work is conducted entirely within the interior of a building and such work is performed by the registered owner of the vehicle who resides on the property.
- (b) It shall be unlawful for the owner, tenant, or lessee of any lands within the city to permit the open storage or parking of any inoperable motor vehicle, machinery, or equipment, or parts thereof, outside of an enclosed garage or enclosed building for a period of more than 48 hours. An inoperable motor vehicle, for purposes of this subsection, shall include a motor vehicle which by reason of dismantling, disrepair, or other cause is incapable of being propelled under its own power, or which is not permitted to be operated on the streets and highways because of non-compliance with the Michigan Motor Vehicle Code, or because the vehicle is not currently licensed or registered, as required for operation by the Motor Vehicle Code.

ARTICLE IX. OFF-STREET PARKING AND LOADING

Section 9-1. Purpose.

The purpose of this article is to regulate the parking and loading of motor vehicles in all zoning districts. Such regulations are intended to assure that adequate motor vehicle off-street parking and access to off-street parking areas are provided at safe and convenient locations, and to assure that off-street parking areas are designed, constructed, and used in a manner consistent with safe and convenient motor vehicle access, circulation, and parking.

Section 9-2. Applicability.

- (a) Off-street parking areas and off-street loading areas shall be provided in all zoning districts as required by the terms of this article.
- (b) Required off-street parking areas and required off-street loading areas shall be established and available for use at the time any main building or main structure is erected, enlarged, or increased in size or capacity, or at the time land uses are established, in accordance with the terms of this ordinance.
- (c) No parking area or loading area which exists at the time of adoption of this ordinance shall thereafter be eliminated or reduced in any manner so as to be noncompliant with the requirements of this ordinance

Section 9-3. Location of Off-Street Parking.

- (a) For all residential land uses, the required off-street parking spaces shall be located on the same lot or parcel as the dwelling or dwelling units served and shall be paved with a concrete or asphalt surface in accordance with City specifications. Off-street parking for multi-family residential uses within the R-3 district shall not be located within the required front yard.
- (b) Off-street parking in the C-1, central business district, may be within 1,000 feet of the building or use it is intended to serve, measured from the nearest building entrance to the nearest point of the off-street parking area. On-street or public parking lots within 1,000 feet may account for up to 75 percent of the required parking.
- (c) For all other land uses, the required parking spaces shall be located on the same lot or parcel, or on lots or parcels under the same ownership that are within 300 feet of the building the parking spaces are intended to serve, as measured from the nearest building entrance to the nearest point of the off-street parking area.
- (d) If, for a non-residential land use, off-street parking is located on lots or parcels under different ownership from that of the lot or parcel being served by the parking spaces, and within 300 feet of the building they serve (as measured in subsection (c)), such additional parking shall be subject to a recordable agreement, stating the terms for the parking arrangement, signed by all parties in interest, such agreement being subject to city approval under the terms of this ordinance and recorded with the Ionia County Register of Deeds.
- (e) No parking area serving a land use in a business district shall be located in a residential district. Driveways providing access to off-street parking areas serving commercial or industrial land uses shall not be located on any street within a residential district.

Section 9-4. General Off-Street Parking Requirements.

- (a) *Permits.*
 - (1) No off-street parking area shall be constructed unless and until the zoning administrator issues a permit.

- (2) Application for a permit shall be submitted on a form provided by the zoning administrator and shall be accompanied with two sets of plans for the development and construction of the parking area showing compliance with the provisions of this article.
- (b) *Access to Parking Spaces.* Each off-street parking space shall open directly onto a clearly defined aisle or driveway of width and design as required by this article to provide safe and efficient access to or from an adjoining street or other approved motor vehicle route.
- (c) *Timing of Parking Area Construction.* Off-street parking areas shall be fully constructed prior to issuance of a certificate of occupancy. However, a certificate of occupancy may be issued prior to full completion of the parking area if the use is otherwise eligible for issuance of a certificate, but inclement weather or other unforeseen circumstances have prevented the completion of the parking area. In such case, the zoning administrator shall set a reasonable time for completion and require the applicant to provide an executed performance bond or irrevocable letter of credit, as specified in section 18-3, in an amount sufficient to complete such construction, as approved by the city engineer.
- (d) *Maximum Amount of Parking Area.* In order to minimize excess areas of pavement, which result in adverse aesthetic impacts, excessive heat and glare, and contribute to high rates of storm water runoff, off-street parking areas exceeding the minimum parking space requirements by more than 20 percent shall be subject to specific approval by the planning commission during site plan review or other zoning approval. In considering a proposed excessive parking area, the planning commission shall evaluate whether the additional parking spaces are necessary to accommodate typical parking demand of the use being served, based on information or evidence submitted by the applicant.
- (e) *Shared or Joint Parking Areas.*
- (1) If there is a mix of land uses in the same building or on the same lot or parcel, and some or all of the uses have differing peak periods of parking use, shared parking agreements that may have the effect of reducing the total amount of needed parking spaces on a site may be permitted by the planning commission in its approval of a site plan or other zoning approval. Such a shared parking agreement shall pertain only to specifically stated land uses and shall not include any off-street parking area required for residential uses.
- (2) If there is a mix of land uses in the same building or on the same lot or parcel, and such uses do not have differing peak periods of parking area use, the total requirement for off-street parking shall be the sum of the requirements for the individual land uses computed separately.
- (3) If in submitting a site plan or other required layout, an applicant provides a signed agreement, recorded with the Ionia County Register of Deeds, between the owners of adjacent or nearby properties, allowing the joint or collective use of off-street parking areas for buildings and uses on two or more adjacent or nearby properties, the planning commission in its approval of a site plan or other zoning approval may authorize such a parking arrangement. The agreement shall provide for sufficient parking spaces equal to the sum of the requirements for the participating individual uses computed separately, except that the planning commission may approve a lesser parking requirement for such uses if the following requirements are complied with:
- a. The proposed uses would have hours of operation which do not coincide or peak hours of operation that do not overlap.
- b. The planning commission may require that sufficient area shall be available to provide the required parking spaces for all land uses computed separately, in the event that the agreement is abrogated or otherwise becomes ineffective.
- (f) *Deferred Parking Construction.*

- (1) In the approval of a site plan or other zoning approval, the planning commission may permit a deferral in the construction of some number of the otherwise required parking spaces, based on consideration of the following factors:
 - a. The nature, size, density, location and design of the proposed use or development, including the design of the off-street parking area and drives for vehicle circulation;
 - b. The characteristics of the use or development which will affect the need for off-street parking spaces, including such factors as non-conflicting peak hours of operation and the sharing of parking spaces by differing uses;
 - c. Experience and supporting data from the same or similar use in comparable locations; and
 - d. Other factors related to the reasonably-anticipated need for off-street parking spaces by the use or development.
 - (2) Such deferred parking shall meet the following requirements:
 - a. Areas proposed for such deferred parking shall be shown on the site plan or other required land use plan and shall be of sufficient size for construction of the number of deferred parking spaces in compliance with the requirements of this article.
 - b. Any such vacant and undeveloped land shall not be included in the calculation of required open space area.
 - c. Vacant land deferred for future parking area shall be permanently reserved for such purpose by means of recorded restrictive covenant, in form and content satisfactory to the city.
 - (3) In its approval of a site plan or other plan, the planning commission may require that vacant land reserved for future parking area shall be landscaped with grass or other plantings. The commission may also specify the conditions under which the vacant land shall be converted to off-street parking area.
 - (4) The planning commission may require the construction of off-street parking within such reserved vacant land if a change of use occurs for the building or use for which the deferred parking was approved, or in circumstances in which the new or revised land use requires a greater number of parking spaces under the terms of this ordinance.
 - (5) The deferred parking agreement shall be recorded with the Ionia County Register of Deeds.
 - (g) *Temporary Parking.* The zoning administrator may authorize the temporary use of a required parking area for a special event that would occur infrequently and which would result in a temporary reduction in the availability of required parking spaces and/or driving aisles for the established land uses on the property. Such special events may include outdoor vehicle sales, festivals, carnivals, church/school car washes, or garage sales. Any such approval by the zoning administrator shall require a prior demonstration by the applicant of the following:
 - (1) That the loss of the required parking spaces may be offset by requiring employees or customers to park elsewhere or that due to the time of year or nature of the on-site business, the required spaces are not necessary.
 - (2) That permission has been granted by neighboring property owners or operators to use their parking facilities.
 - (3) That the duration of the special event is so short or of such a nature as to not create any parking problems for the normal operation of the existing on-site use.
 - (4) That temporary off-site parking is located and designed to ensure safe and efficient circulation for both pedestrians and vehicles. The zoning administrator may require a site plan to demonstrate this or other aspects of the proposed temporary parking.
-

- (5) That the proposed special event satisfies all other applicable city regulations.
- (h) *Storage and Repair.* The use of semi-trailers or other vehicles or containers for storage purposes within a parking area is prohibited. The display of vehicles in a required off-street parking lot solely for the purpose of making them available for sale is prohibited except in approved vehicle sales lots.
- (i) *Recreational Vehicle Storage.* No recreational vehicle or recreational unit may be kept or stored outdoors on any property in a residential district for a period longer than 72 hours, except in compliance with all of the following conditions:
- (1) The recreational vehicle or unit is owned by the occupant of the property on which it is stored.
 - (2) Storage shall be in the rear yard only.
 - (3) The vehicle shall be kept in good repair and in a sightly condition.
 - (4) Recreational vehicles and recreational units shall be shielded from view from streets or adjacent lots, by shrubbery or fencing compatible with the general appearance of the neighborhood and the requirements of this article.

Section 9-5. Design and Construction Requirements.

- (a) *Minimum size of parking spaces.* All parking areas shall be designed in accordance with the minimum aisle and space requirements of the following parking table.

Parking Table								
Parking Pattern (degrees)	Parking Space (feet)		Aisle Lane Width (feet)		Total Width - Spaces + Aisle Lane (feet)			
					One Tier		Two Tiers	
	Width	Length	One Way**	Two Way	One Way	Two Way	One Way	Two Way
0 (parallel)	9	22	12	20	21	29	30	38
.1 to 29	9	18	15	-	33	-	51	-
30 to 53	9	18	15	-	33	-	51	-
54 to 74	9	18	15	-	33	-	51	-
75 to 89	9	18	15	-	33	-	51	-
90	9	18	15	24	33	42	51	60
**Where one-way drives for access abut buildings, the minimum width shall be 20 feet.								

- (b) *Maneuvering aisles.* All spaces shall be accessed by means of interior aisles. Backing directly onto a street shall be prohibited, except for those spaces serving a single- or two-family dwelling.
- (c) *Parking lot access.*
- (1) Adequate ingress and egress to and from the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.
 - (2) Ingress and egress to and from a parking lot located in a nonresidential district shall not be across land zoned in a residential district.
 - (3) Access drives shall be a minimum of 15 feet wide for one-way traffic and 24 feet wide for two-way traffic.
- (d) *Construction and reconstruction requirements.*
- (1) The entire parking area, including parking spaces and maneuvering lanes, shall be paved with asphalt or concrete surfacing in accordance with city specifications; provided, the planning

commission may authorize the use of pervious pavers where it is demonstrated that the durability and appearance will be comparable to concrete or asphalt.

(2) Surfacing of the parking area shall be completed prior to occupancy, except as may be permitted by section 9-4(c).

(3) Off-street parking areas shall be drained to dispose of all surface water accumulated in the parking area in such a way as to preclude runoff onto adjacent property or toward buildings.

(4) All parking spaces shall be striped with paint or other approved material, at least four inches in width. The striping shall be regularly maintained and clearly visible.

(5) Fire hydrants accessed from parking areas shall not be located closer than five feet from the back of the curb next to any parking space, loading area, fire lane, or maneuvering aisle.

(6) The off-street parking area shall be provided with lighting, landscaping, and screening as required in this ordinance.

(e) *Snow storage.*

(1) For parking lots having more than 100 spaces, where the planning commission determines that snow removal and storage may pose a problem to traffic circulation or reduce the amount of required parking, the site plan shall designate snow storage areas.

(2) Storage areas shall not hinder the vision of drivers or pedestrians within the parking area or when exiting the parking area.

(3) The snow storage area shall be equal to at least 10 percent of the size of the parking lot. The area used for calculating the needed snow storage area shall not include deferred parking areas, until such time as the deferred parking area is converted to parking.

(4) Snow shall be removed as necessary to maintain the number of required parking spaces.

(f) *Outdoor storage.* The outdoor storage of merchandise; motor vehicles for sale; trucks or equipment; wrecked, junked, or unlicensed vehicles; or the repair of vehicles in areas designated for parking, including the maneuvering lane, is prohibited.

Section 9-6. Schedule of Required Off-Street Parking.

(a) *Units of measure.*

(1) When units of measurement determining the number of required parking or loading spaces result in the requirement of a fractional space, any fraction over one-half shall require one parking space.

(2) If a parking space requirement is stated in terms of number of employees, the required number of parking spaces shall be calculated based upon the maximum number of employees likely to be on the premises during the largest working shift.

(3) If a parking space requirement is stated in terms of numbers of seats, but the land use in question involves benches, pews, or some other type of seating, then each 24 inches of such seating shall be counted as one seat.

(4) Gross floor area (GFA) will be used to compute the number of parking spaces required, unless otherwise noted.

(5) Usable floor area (UFA) shall be determined as defined in this ordinance. Seventy-five percent of the gross floor area shall be used to calculate usable floor area for parking computations when usable floor area is not known.

(b) *Uses similar in type.*

(1) The zoning administrator shall determine the parking space requirement for any use not specifically listed in this section by applying the parking space requirement for a listed use that is similar in its character to the land use in question.

(2) If the proposed land use is not similar to any uses listed in this section, the zoning administrator shall determine the minimum parking space requirement by referring to minimum

parking space standards specified in generally accepted land use planning manuals, specialized parking publications, or by utilizing the applicable parking space requirement established by another local government.

(c) *Stacking spaces.* Certain uses are greatly reliant on vehicle access and possess characteristics that create the need for additional area devoted to stacking/queueing vehicles. This subsection outlines requirements for such spaces.

(a) Each stacking space must be shown on a site plan. Each stacking space shall have a minimum dimension of 22 feet long by nine feet wide.

(b) Stacking spaces shall be located to avoid undue interference with on-site parking or maneuvering and to prevent unnecessary hazards to pedestrians.

(c) Regardless of the number of stacking spaces required or provided, in no instance shall the operator permit vehicles to stack into any adjacent public or private street.

(d) *Required parking.* Each use shall provide off-street parking in conformance with the following schedule of requirements:

Use	Parking Requirement Spaces Per Unit of Measurement
Industrial	
Accessory office areas related to principal uses	1 space per each 300 sq. ft. of UFA
Electrical substations, electrical switching stations, electrical transmission lines, and pressure control stations or substations for gas, water and sewage	1 space for maintenance vehicle
Freight forwarding, packing, and crating services	1 space for each 2,000 sq. ft. plus those spaces required for offices located on the premises
Fuel depot	1 space per 1.5 employees on the largest shift
Light industrial	1 space per each peak shift employee, plus spaces required for office uses
Lumber and wood products including millwork, prefabricated structural wood products and containers, not including logging camps	1 space per 1.5 employees on the largest shift
Lumberyards	1 space per each 300 sq. ft. of UFA of office space plus 1 space per employee on the largest shift
Movie, film, or photo studios, post-processing, or production facilities	1 space per each peak shift employee, plus spaces required for office uses
Municipal buildings, public service buildings	1 space per each 300 sq. ft. not including parking areas for municipal vehicles
Printing and publishing	1 space for each 1,000 sq. ft. plus those spaces required for offices located on the premises
Production of apparel and other finished products made from fabrics, leather goods, fur, canvas, and similar materials	
Production of food products including meat, dairy, fruit, vegetable, seafood, grain, bakery, confectionary, beverage and kindred foods	
Production of household goods like jewelry, silverware, toys, athletic, office and tobacco goods, musical instruments, etc.	

Use	Parking Requirement Spaces Per Unit of Measurement
Production of textile mill products including woven fabric, knit goods, dyeing, and finishing, floor coverings, yarn and thread and other textile goods	
Production or assembly of furniture and fixtures	
Research and development facilities	1 space for each 500 sq. ft. UFA plus those spaces required for offices located on the premises
Retail sales of goods where such sale is clearly incidental and accessory to the principal use	1 space per each 300 sq. ft. of UFA of retail sales area
Salvage or junkyards	1 space per each 300 sq. ft. of UFA of office space plus 1 space per employee on the largest shift
Tool and die manufacturing facilities	1 space for each 1,000 sq. ft. plus those spaces required for offices located on the premises
Trade or industrial schools	1 space per employee plus one space per every two students
Warehouses, cartage businesses	1 space for each 2,000 sq. ft. plus that required for office space
Waste treatment facilities	1 space per employee, not including areas for municipal vehicles
Water supply and treatment facilities	1 space per employee, not including areas for municipal vehicles
Wholesale establishments distributing goods including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products	1 space for each 2,000 sq. ft. plus that required for office space
Wireless communication, radio, television or microwave tower	1 space for a maintenance vehicle
<i>Institutional/Public Assembly</i>	
Banquet hall and/or conference center	1 space for every 4 persons permitted in the maximum occupancy by fire code
College or university	1 space per every 3 students or the amount required for the auditorium or place of assembly, whichever is greater
Convalescent or nursing home	1 per each 2 beds, plus 1 per employee
Elementary and middle school	4 per classroom or amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for buses must be provided
High school	8 per classroom or amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for buses must be provided

Use		Parking Requirement Spaces Per Unit of Measurement
Hospital		1 space per each four patient beds, plus 1 space for each employee
Municipal and public service activities		1 space per each 300 sq. ft. of GFA, not including parking areas for municipal vehicles
Places of religious worship		2 per each 5 seats for capacities up to 2,500 persons; for capacities 2,500 persons or greater: 2 per each 7 seats. Based on the maximum seating capacity of the main place of assembly.
Office		
Bank or other financial institution without drive-through facilities		1 space per each 400 sq. ft. GFA
Laboratories including experimental, film, testing, and medical		1 space per each 500 sq. ft. Useable Floor Area (UFA), plus spaces required for office uses
Medical office, including clinic		1 space per each 250 sq. ft. of GFA
Professional office		1 space per each 400 sq. ft. of GFA
Research and development facilities		1 space per each 500 sq. ft. GFA, plus spaces required for office uses
Veterinary clinics		1 space for each 300 sq. ft. of UFA
Recreation/Entertainment		
Fraternal or social club or lodge		1 space for every 4 persons permitted in the structure by fire code
Golf course or country club		2 per each hole for a par 3 course; 6 per hole for other courses, plus those required for accessory uses
Health or exercise club		1 space per each 6 persons permitted by fire code
Hotel		1 per unit, plus 1 per day-shift employee, plus 1 per 4 persons permitted by fire code for banquet and meeting space
Indoor theater		1 space per each 3 seats, plus 1 for each 2 employees
Park, playground, and community center		10 per each athletic field plus 1 per each 10 sq. ft. of indoor or outdoor play area
Recreation facility, indoor (e.g., arcades, bowling, billiards)		1 space for every 3 persons permitted by fire code
Recreation facility, outdoor (e.g., mini-golf, batting cages)		1 space per each 2 miniature golf holes; 2 spaces per each batting cage; 1 space per each 100 sq. ft. GFA of arcade space
Restaurant	with drive through facility	1 space per each 100 sq. ft. of UFA plus 10 stacking spaces per each outside service window or ordering station and 2 spaces near the service window for order delivery

Use		Parking Requirement Spaces Per Unit of Measurement
	without drive through facility	1 space per 100 sq. ft. of UFA or 1 space per 2 persons allowed within maximum occupancy by fire code, whichever is greater
Tavern permitting dancing, live entertainment or consumption of alcoholic liquors on premises		1 space for every 3 persons allowed within maximum occupancy by fire code
Residential		
Accessory dwelling unit		1 per unit
Adult foster care family homes, adult foster care small and large group home, adult foster care congregate facility		1 per each 3 beds or 2 rooms, whichever is less, plus 1 per on duty shift staff
Bed and breakfast establishment		2 plus 1 per guest room
Family child day care homes		1 per each 3 children computed on the basis of the licensing limits of the facility
Manufactured home community		2 spaces per manufactured housing pad, plus 1 space per each 5 pads for use of visitors, plus that required for office area
Multiple-family dwellings		2 per dwelling unit
One-family attached dwellings		
One-family detached dwellings		
Two-family dwellings		
Retail/Service		
Art studio/craft shop		1 space per 800 sq. ft. GFA
Convenience stores		4 spaces per 1,000 sq. ft. of UFA, but no less than 8 spaces
Day care centers where such use is clearly incidental and accessory to the primary use		1 space per each 3 clients computed on the basis of the greatest number of clients on site at a given time
Day care center		1 space per each 3 children the facility is licensed to accept
Furniture stores		1 space per 800 sq. ft. of UFA
Greenhouse, hydroponics, aquaculture facility		1 space per each peak shift employee, plus spaces required for office uses
Grocery store/supermarket		5 spaces per 1,000 sq. ft. of UFA
Kennel, commercial		1 space for each 400 sq. ft. of UFA
Laundromat		1 space for each 2 machines
Mini-storage		1 space for every 4 storage units (adjacent to the units) plus office, if any
Mortuary or funeral home		1 space per each 50 sq. ft. of parlor and chapel areas
Open air business		1 space per each 800 sq. ft. of lot area used of the open air business, plus parking for any main use building and associated accessory uses
Pawnshop		1 space per each 300 sq. ft. of GFA
Personal service establishment		2 spaces per service provider

Use	Parking Requirement Spaces Per Unit of Measurement
Retail building supplies and equipment store	1 space per each 250 sq. ft. of UFA
Retail establishment	1 space per each 300 sq. ft. of GFA
Retail establishment less than 25,000 square feet	1 space per each 400 sq. ft. of GFA
Veterinary hospitals or clinics without outdoor kennels	1 space per each 400 sq. ft. UFA
Vehicular/Transportation	
Bus passenger station	1 space per 200 sq. ft. of GFA
Freight transportation/trucking terminal	1 space per each employee
Truck stop	Parking operations plan plus 1 space for each employee and 1 space per each 200 sq. ft. of UFA
Truck wash	Parking operations plan plus 1 spot per wash bay
Vehicle repair	3 spaces per service bay, plus 1 space per employee
Vehicle sales	1 space per each 300 sq. ft. of showroom floor area
Vehicle wash	1 space per each employee, plus stacking 10 stacking spaces for automatic washes and 1 per wash bay for manual washes

Section 9-7. Off-Street Loading Requirements.

- (a) Space for standing, loading, and unloading that avoids undue interference with public use of dedicated rights-of-way, shall be provided and maintained, in accordance with the schedule below, on the same premises with every building, structure or part thereof involving the receipt or distribution of vehicles, materials, or merchandise.
- (b) Loading, unloading, or parking of delivery vehicles and trailers in a nonresidential district shall take place only in approved areas. Under no circumstances shall a delivery vehicle or trailer be allowed to park in a designated loading/unloading zone for longer than 48 hours.
- (c) Required spaces shall be provided in the rear yard. The planning commission may permit the side yard to be used for loading spaces; provided, adequate screening is provided. No off-street loading spaces are required in the C-1 district.
- (d) All loading spaces in the Industrial district shall be at least 10 by 50 feet, or other dimensions totaling at least 500 square feet in area, with a clearance of at least 14 feet in height. Loading dock approaches shall be provided with a pavement having an asphaltic or cement binder. Spaces shall be provided as follows:

Gross Floor Area (sq. ft.)	Loading and Unloading Spaces Required
0—1,400	None
1,401—20,000	1 space
20,001—100,000	1 space plus 1 for each 20,000 sq. ft. UFA over 20,001 sq. ft. UFA
100,001 and over	5 spaces plus 1 for each 40,000 sq. ft. UFA over 100,001 sq. ft. UFA

ARTICLE X. LANDSCAPING AND BUFFERNG

Section 10-1. Purpose.

Landscaping is an important element of the use, development, and preservation of land, and a significant factor in conserving the value of land, buildings, and structures in the city. The principal purpose of this article is to promote the public health, safety, and general welfare by establishing minimum standards for the design, installation, and maintenance of landscaping to achieve a variety of beneficial purposes, including:

- (1) improve and enhance the character of the developed properties;
- (2) screen or filter views, where necessary;
- (3) buffer incompatible uses;
- (4) remove air pollutants;
- (5) reduce glare and reflection;
- (6) slow the effects of erosive winds or water;
- (7) promote storm water retention, thereby helping to prevent flooding;
- (8) facilitate safe and efficient traffic flow at driveways and within parking lots;
- (9) reduce the impacts of glare from headlights; and
- (10) distinguish and separate vehicular and pedestrian circulation paths.

Section 10-2. Applicability.

The standards and requirements specified in this article shall apply to any land use for which site plan review is required per section 14-2 of this ordinance. Accordingly, the provisions of this article shall not apply to land uses exempt from site plan review as stated in section 14-2(c). The requirements of this ordinance shall be complied with to the extent reasonably possible, as determined by the zoning administrator or planning commission, as applicable. In its review of a site plan, the reviewer shall have the authority to decrease or otherwise modify the applicable landscaping and screening requirements, in consideration of the following criteria:

- (1) the amount of space available for landscaping;
- (2) existing landscaping or natural vegetation on the site and adjacent properties;
- (3) existing and proposed adjacent land uses;
- (4) the effect of the required landscaping on the operation of the proposed land use; and
- (5) the effectiveness of the required landscaping and screening in relation to the topography of the site.

Section 10-3. Landscape Plan.

Whenever landscaping, buffering, or screening is required by this ordinance, a landscape plan shall be submitted for review and approval. The landscape plan, whether submitted as a separate plan or as part of an overall site plan, shall be prepared and sealed by a registered landscape architect and include the following:

- (1) existing vegetation on the site and a clear indication of which existing plants, if any, will be retained;
- (2) existing and proposed contours of the site, shown at reasonable intervals;
- (3) topographic features of the site which will be utilized as a part of the landscaping;
- (4) typical straight cross-section, including the slope, height, and width of berms;
- (5) the location, spacing, size, and description of each plant type proposed to be used in all landscaped areas;
- (6) a list of all plants, showing the required and proposed quantities; and

- (7) methods and details for protecting all existing trees and vegetation to be retained on the site during construction activity.

Section 10-4. General Landscaping Requirements.

(a) *Required plant materials.* Required plant materials shall meet the following minimum requirements at the time of planting:

Minimum Plant Material Size			
Plant Type	Minimum Caliper ¹	Minimum Height	Minimum Spread
Canopy trees	2½ inches	4 feet to first branch	—
Ornamental trees	2 inches	4 feet	—
Evergreen trees	—	5 feet	—
Large deciduous shrubs	—	2 feet	15 inches
Hedges ²	—	4 feet	—

Footnotes:

¹ Measured 12 inches above grade

² Hedges shall be planted and maintained to form a continuous, unbroken, visual screen within two years after planting

(b) *Trees not permitted.* For the purposes of this section, the following trees shall not be permitted because they split easily, their wood is brittle and breaks easily, their roots clog drains, or they are unusually susceptible to disease or insect pests. The zoning administrator, however, may allow trees from this list when associated with an appropriate ecosystem, such as a wetland area:

- (1) Ash;
- (2) Box elder;
- (3) Soft maples;
- (4) Elms;
- (5) Poplars;
- (6) Ailanthus (Tree of Heaven);
- (7) Willows;
- (8) Eastern Red Cedar;
- (9) European Barberry; and
- (10) Northern Catalpa

(c) *Mixing of species.* The overall landscape plan shall not contain more than 33 percent of any single plant species. The use of trees native to the area and central Michigan and a mixture of trees from the same species association, is encouraged.

(d) *Plant material spacing.* At planting, materials shall be spaced to ensure their survival over the length of their growing period.

(e) *Installation.*

- (1) All required landscape materials shall be installed according to accepted planting procedures and in a sound workmanlike manner. Plant material shall meet current standards of the American Association of Nurserymen.
- (2) All landscaped areas shall be provided with an irrigation system or a readily available and acceptable water supply, as approved by the city.
- (3) All required plantings shall be installed within six months of their approval by the city.

- (4) Plant material shall be installed so at maturity, it does not obscure traffic signs or lighting, obstruct access for emergency vehicles, interfere with adequate sight distance for motorists, or disrupt drainage patterns on the site or on adjacent properties.
- (5) Landscaped areas shall be covered by grass or other living ground cover, except as otherwise allowed. The use of cobble stones, mulch, crushed stones, pavers, or other non-living material as a ground cover in planting beds shall be minimized. Non-living materials may be used to accent or protect living plant material but shall not dominate the landscape design.
- (6) Trees and shrubs shall be set back 10 feet from the edge of a road and five feet from a vehicular access or pathway.
- (7) The clear vision requirements of section 8-21 shall be met.
- (f) *Maintenance.*
- (1) All landscaping (including buffer strips, trees, lawns, and ground cover) shall be maintained in a healthy, neat, and orderly appearance free of disease and insect infestations as well as clear of weeds and debris.
- (2) Unhealthy, diseased, and dead plant material shall be replaced with comparable material of the same size and type.
- (g) *Existing vegetation.*
- (1) Where healthy plant material exists on a site prior to its development or redevelopment variations from the landscape requirements may be approved to allow credit for the existing plant material if the adjustment is in keeping with the intent of this section.
- (2) All existing live trees greater than 12 inches in diameter measured 4½ feet above the ground shall be preserved to the extent practical.
- (3) In the event any existing tree required to be preserved by this article becomes diseased or dies, it shall be the responsibility of the owner/developer to replace such tree with a comparable tree of the same size and type. If the lost tree is of such size that it is not reasonable to replace it with a comparably sized tree, two or more trees whose aggregate size equals the lost tree shall be planted.

Section 10-5. Buffering.

(a) *Required Locations.*

- (1) A buffer zone shall be required along the boundary between adjoining parcels of land in differing zoning districts as indicated in the following Required Buffers table:

Abutting Zone District	Required Buffer Zone*						
	R-3	R-4	C-1	C-2	C-3	R-O	IND
R-1	C	B	C	B	B	B	A
R-2	C	B	C	B	B	B	A
R-3		C	C	B	B	B	A
R-4			C	B	B	B	A
R-O				C	C		B
C-1				C	C		A
C-2					C		B
C-3							C
IND							

*In the above table, the zone district required to provide the buffer is listed under the heading “Required Buffer Zone”. The letter abbreviations shown in the columns under “Required Buffer Zone” refer to the buffer standards specified in the table in subsection (b) of this section.

- (2) Buffer zone requirements shall not apply where adjacent zoning districts are separated by a public street. However, the streetscape requirements of this article shall apply.
- (3) A buffer zone shall be required, even if the abutting parcel is undeveloped land.
- (4) When any developed property is changed to a more intense land use, a special land use, or other use for which site plan review is required, a buffer zone shall be provided in compliance with this section, as applicable.

(b) *Minimum Standards for Buffer Zones.*

- (1) Buffer zones specified in this section shall comply with the following requirements:

Requirements	Buffer Zone		
	A	B	C
Minimum Width	30 feet	20 feet	10 feet
Canopy Trees	3*	2*	1*
Ornamental Trees	2*	1*	1*
Evergreen Trees	4*	2*	1*
Shrubs	8*	4*	2*

*Number of specified trees or shrubs required to be planted and maintained for each 100 linear feet of required buffer zone, as measured along the relevant property line.

- (2) If a berm, screen wall, or fence is used for all or part of the buffer zone, required plant material quantities may be reduced by 50 percent, but not less than one, along that portion of the buffer zone. The berm, wall, or fence shall comply with minimum standards contained in this article.
- (3) All areas of the buffer zone outside of planting beds shall be planted with grass or other living ground cover.
- (4) Landscape materials shall conform to all applicable standards in section 10-4.
- (5) Storm water detention/retention areas shall be permitted within buffer zones; provided, they shall not reduce the required screening effect of the buffer zone, nor impair the effective growth or survival of trees, plants, and other vegetation in the buffer zone.

Section 10-6. Utility Buildings, Outdoor Equipment, Outdoor Storage and Waste Receptacles

- (a) *Screening.* Outdoor equipment related to utility buildings, stations, and/or substations and located within any residential district shall be screened by an opaque six-foot high wall or fence.
- (b) *Enclosure of trash receptacles.* All trash receptacles or trash storage areas shall be contained within an enclosure complying with the provisions of section 8-15 of this ordinance.
- (c) *Outdoor open storage.* Outdoor open storage of any equipment, vehicles, or materials, shall be screened from public or private right-of-way and residential districts. Such storage shall not be located in the required front setback. Commercial and industrial uses abutting one another shall be exempt from this requirement to screen from one another, except as otherwise required by this ordinance.

ARTICLE XI. PRIVATE STREETS

Section 11-1. Purpose.

The provisions of this article are intended to protect the public health, safety, and welfare by regulating the construction, improvement, extension, relocation, and use of private streets. These provisions have been enacted to assure that private streets will:

- (1) conform to reasonable construction standards intended to enhance the longevity of the street and minimize on-going maintenance costs for adjoining property owners;
- (2) not adversely affect the long-term development policies of the city;
- (3) be designed and constructed to uniform standards for width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles; and
- (4) be constructed to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the city.

Section 11-2. Frontage and access.

- (a) Any lot created after the effective date of this ordinance shall have the required minimum continuous frontage, as specified for the zoning district in which it is located, on a shared driveway, private street, or public street.
- (b) No more than two contiguous lots not having frontage on a public or private street may be served by a shared driveway.
- (c) Any three or more contiguous lots not having frontage on a public street shall have frontage upon a private street.
- (d) All private streets shall have a minimum of one point of access to a public street, as approved by the city.

Section 11-3. Design.

The following design and construction specifications and materials shall be met for all newly established or reconstructed driveways and private streets.

- (1) *Shared driveways.*
 - a. Shared driveways serving two abutting lots shall have a minimum traveled surface width of 12 feet and be constructed to provide a safe and unimpeded route of travel.
 - b. The shared driveway shall be paved with concrete or asphalt.
 - c. An access easement shall be provided for any shared driveway. A minimum easement width of 30 feet is required, and the easement shall expressly permit access for each abutting lot, as well as the installation and maintenance of public or private utilities.
 - d. The easement shall be recorded with the Ionia County Register of Deeds
- (2) *Private streets.*
 - a. Private streets shall have an easement width of not less than 66 feet. The easement shall expressly permit access for all abutting lots, as well as the installation and maintenance of public or private utilities and sidewalks.
 - b. Private streets shall be constructed with a sand and gravel base of not less than 12 inches with a minimum of six inches of gravel and be covered with bituminous blacktop paving material of not less than 1½ inches in depth at any point for the traveled portion of the street.

- (3) *Pavement widths.* Private streets shall have a minimum width of 24 feet of traveled surface.
- (4) *Street/driveway combinations.* The city council, in considering approvals for private streets, may allow a development project to contain a combination of driveways, private streets, and public streets.
- (5) *Length of private streets.*
 - a. The maximum length of a private street shall be 800 feet, unless a second means of access is provided to a public street. Street lengths are measured from the edge of the public street right-of-way along the centerline of the private street to the furthest point of any private street.
 - b. The city council, after recommendation of the planning commission and upon a finding that at least one of the following conditions exists, may permit the maximum length of the private street to be exceeded. Upon reaching such finding, the city council shall establish the maximum length of the proposed private street.
 - i. That topography or other significant natural features preclude access to any other public street or adjoining property on which a public street may be constructed. Such significant natural features shall be clearly identified and marked on the proposed private street plans.
 - ii. That not allowing a longer private street would deprive the owner of all reasonable use of a significant portion of the property. Drawings demonstrating that no other development is feasible and no other access options are available shall be submitted by the applicant and reviewed by the city council prior to confirming this finding.
 - iii. That the increased length will not impair the safe and unimpeded access of emergency vehicles to the properties served by the private street. The access shall be reviewed by the fire chief and the recommendation forwarded to the city council.
- (6) *Intersections with public streets.*
 - a. The layout of the private street and the intersections of the private street with either a public or another private street shall be such that clear vision, safe turning, and travel in all directions is assured at the posted speed limit, as determined by the city engineer.
 - b. The minimum distance between intersections of any two street rights-of-way shall not be less than 150 feet, as measured along the right-of-way lines.

Section 11-4. Modification of requirements.

Upon application the city council may modify any of the private street requirements of this section after finding that all of the following conditions exist:

- (1) That topography, soils, and/or other significant natural features physically preclude or prevent compliance with the requirements of this section without substantial alteration of those natural features. Such natural features shall be clearly identified and described in the application for any modification;
- (2) That the justification of any modification is not due solely to financial considerations;
- (3) That no other reasonable private street design alternatives are available that would comply, or more closely comply, with the requirements of this section; and
- (4) That the request for modification was reviewed and approved by the fire chief, city engineer, planner, or any other person or official designated by the city council.

Section 11-5. Review and approval.

(a) No individual, association, corporation, or entity, either public or private, shall construct a private street without first having obtained approval of the private street from the city council. The planning commission shall review the application and make recommendation to the council pursuant to the standards set forth in this section.

(b) Prior to consideration of a private street request, an application shall be filed with the zoning administrator and shall contain the following:

- (1) A completed private street permit application;
- (2) A detailed written description of the development to be served by the private street; and
- (3) Sufficient copies, as specified by the zoning administrator, of the private street construction plan, drawn to scale, prepared by a professional engineer registered in the State of Michigan. The private street plan shall show, at a minimum:
 - a. Design of the private street including location, grade, elevation, dimensions, and radii;
 - b. Any proposed future extensions of the private street;
 - c. Existing driveways and public and private street intersections within 200 feet of the subject property boundaries;
 - d. Location and specifications for sidewalks;
 - e. A survey of the right-of-way by a registered land surveyor, together with surveys for each lot or parcel to be served by the private street;
 - f. The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity, internet, and television cable to be located within the private street right-of-way or within 20 feet of either side thereof. Copies of the instruments describing and granting such easements shall be submitted with the application;
 - g. The location of any lakes, streams, wetlands, and drains within the proposed right-of-way or within 100 feet thereof; and
 - h. The location of any buildings and structures located within 100 feet of the private street right-of-way and the building envelope within the required zoning district setbacks of each lot that would have access to the private street.
- (4) The applicant shall submit a proposed easement in recordable form, as required in section 11-8(d). The easement shall grant access to all abutting properties and specify ownership, maintenance responsibilities, cost sharing procedures, and other relevant requirements to assure the continued maintenance of and accessibility to the private street. The easement shall be reviewed and approved by the city attorney.

(c) Prior to approving a private street permit application, the city council shall determine the following:

- (1) That the proposed private street will not be detrimental to the public health, safety, or general welfare;
- (2) That the proposed private street will not adversely affect the use of adjacent land;
- (3) That the private street is constructed to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions;
- (4) That the private street is constructed to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the city;
- (5) That the location, lots served, design, and construction of the private street will conform to the requirements of this ordinance and all applicable city street construction standards; and

- (6) That the private street as proposed would be integrated into the existing city street system and that cul-de-sacs meet the criteria of section 8-4(d).
- (d) The city council may require that the applicant comply with reasonable conditions relative to the design and construction of the private street.
- (e) The city council, as a condition of the private street construction permit, may require that the applicant provide a performance guarantee.

Section 11-6. Permits.

- (a) The building official shall not issue building permits for any residential unit or other structure on lots served by a private street or shared driveway until a safe and unimpeded route of travel, as approved by the city fire chief and city engineer, is available for emergency equipment.
- (b) The zoning administrator shall not issue occupancy permits for any residential unit or other structure requiring a building permit on lots served by a private street or shared driveway until construction of the private street or shared driveway, has been completed, as approved.
- (c) A permit shall be obtained from the road authority for any access to a public street.
- (d) A soil erosion and sedimentation control permit shall be obtained, if required.
- (e) All other required state permits shall be obtained prior to the issuance of any building or occupancy permits, as applicable, for lots served by the private street. Evidence of the receipt of such permits shall be provided to the zoning administrator.
- (f) Fees for the permits and approvals required by this section shall be set by the city council from time to time by resolution. Additionally, the city council may require that the applicant put sufficient funds in escrow to cover the costs of having the city attorney, engineer, planner, or other professional review the private street plans, specifications, and maintenance agreements, and to perform the necessary inspections.
- (g) The applicant/owner of the private street agrees that by applying for or securing a permit to construct the private street the applicant/owner indemnifies and holds the city harmless from any and all claims for personal injury and/or property damage arising out of the use of the private street or of the failure to properly construct, maintain, use, repair, or replace the private street.

Section 11-7. Inspection/certificate of compliance.

- (a) Upon completion of construction of the private street, the city engineer shall inspect the completed construction to determine whether it complies with the approved plan, specifications, permit, and requirements of this ordinance.
- (b) The applicant, at the applicant's expense, shall provide the city with a set of "as built" drawings bearing a certificate and statement from a professional engineer registered in the State of Michigan certifying that the private street has been completed in accordance with the requirements of the permit and the road authority.
- (c) If the completed private street does not satisfy the requirements of the permit or this ordinance, the applicant shall be notified of the noncompliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant to the penalties provided for in this ordinance, including but not limited to withholding any certificate of occupancy for completed buildings.

Section 11-8. Maintenance and repairs.

- (a) Private streets shall be maintained in a manner that complies with the provisions of this section.
- (b) All shared driveways and private streets shall be continuously maintained in such a way that they assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.

- (c) All costs for maintenance and repair of the private street shall be the responsibility of the property owners or any property owners association served by the private street.
- (d) Private street maintenance or restrictive covenant agreements.
 - (1) The applicant/owner of the proposed private street right-of-way or private street shall provide the city council with a recordable private street maintenance or restrictive covenant agreement between the owner of the private street right-of-way and any other parties having any interest therein, or other documentation satisfactory to the city council which shall provide for and assure that the private street shall be regularly maintained, repaired, and snow plowed so as to assure that the private street is safe for travel at all times and the cost thereof paid.
 - (2) The applicant/owner agrees, by filing an application for and receiving a permit under this ordinance, that the applicant/owner will assure that any building or parcels thereafter created or constructed on the private street shall also be subject to the street maintenance or restrictive covenant agreement and that the agreement shall be recorded and shall run with the land.

Section 11-9. Existing private streets.

- (a) *Status of existing private streets.*
 - (1) A private street existing on the effective date of this ordinance, though not in compliance with the provisions of this article, may continue to be used; provided, it is continuously maintained to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
 - (2) Private streets in existence as of the effective date of ordinance whose right-of-way or easement width is less than 66 feet need not provide additional right-of-way or easement width; provided, such width shall not subsequently be reduced
- (b) *Addition of lots or parcels of land to existing shared driveways or private streets.*
 - (1) Any private street existing on the effective date of the ordinance shall be continuously maintained to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
 - (2) In the event a lot or lots is proposed to be added to a shared driveway, increasing the number of lots accessed by that shared driveway to more than two, the shared driveway shall be treated as a new private street and shall be upgraded for its entire length to comply with all applicable requirements of this article for private streets.
 - (3) In the event that a lot or lots is proposed to be added to an existing private street that changes its design requirements per section 11-3, the private street shall be upgraded, as necessary, to meet the applicable private street requirements for that segment of the street measured from the nearest intersection with another street to the portion serving the new lot or lots.
- (c) *Extensions of existing private streets.*
 - (1) Any private street meeting the design and construction requirements of this ordinance and subsequently extended shall comply in all respects to this section; provided, if the number of lots served will increase as a result of the extension, the applicable requirements of section 11-9(b)(3) shall govern.
 - (2) If a private street existing on the effective date of the ordinance is subsequently extended for a distance of 500 feet or more, the length of the private street from the nearest intersection with another street to the end of the extended street segment shall comply with all applicable requirements of section 11-3.

(3) If a private street in existence at the time of the adoption of this ordinance is subsequently extended for a distance less than 500 feet, the new street segment may be constructed in the same manner as the existing portion of the private street.

ARTICLE XII. SPECIAL LAND USE PROCEDURES.

Section 12-1. Purpose.

Special uses are generally consistent with the purpose of the zoning district in which they are permitted but, due to unique operational characteristics, may not be desirable or compatible in all locations. Factors such as traffic, hours of operation, noise, odor, or similar potential effects require that the special use be evaluated relative to its appropriateness on a case-by-case basis. Therefore, special land uses may be permitted within a zoning district, with planning commission approval, following a review of the use and its potential impact on its surroundings. This article establishes review procedures for special land uses and the general standards that must be met for all special uses. Some uses are also subject to additional requirements to mitigate their potential negative impacts, as specified in article 13.

Section 12-2. Applications.

- (a) An application shall be submitted through the zoning administrator, accompanied by:
 - (1) The payment of a fee as established by the city council;
 - (2) A completed application form;
 - (3) Complete site plans as specified in article 14 of this ordinance; and
 - (4) A narrative describing the proposed use.
- (b) Applications for a special land use shall be submitted at least 30 days prior to the next planning commission meeting. Incomplete applications shall be returned to the applicant and will not be forwarded to the planning commission.

Section 12-3. Review Procedures.

- (a) The complete application, along with the required site plan, shall be forwarded to the planning commission at its next scheduled meeting.
- (b) The planning commission shall hold a public hearing on the special use application, noticed in accordance with the requirements of the Zoning Act.
- (c) Upon conclusion of the public hearing, the planning commission shall consider the special land use application relative to public hearing comments; recommendations or reports from the city's planner, engineer, or other staff and consultants; the general review criteria of section 13-4, and any requirements of article 12 specific to the proposed use. The commission shall approve, approve with conditions, or deny the request, and incorporate the basis for the decision and any conditions which should be imposed on an approval. If the commission determines that the request satisfies the standards of section 12-4 and the specific applicable special use criteria in article 13, the special use shall be approved or approved with conditions.
- (d) If the special land use is approved or approved with conditions, the planning commission shall consider the site plan, based on the review criteria of section 14-6, and shall approve, approve with conditions, or deny the site plan.
- (e) No petition for special land use approval, which has been disapproved, shall be resubmitted for a period of one year from the date of disapproval, except as may be permitted by the zoning administrator after learning of new and significant facts or conditions which might result in favorable action upon resubmittal.

Section 12-4. Standards for Approval.

- (a) In addition to the requirements applicable to individual uses, as specified in article 13, an application for special land use approval shall be reviewed for compliance with the general review standards of this section.

- (b) Each application shall be reviewed for the purpose of determining that the proposed special land use will:
- (1) Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance, with the existing or intended character of the general vicinity and that the use will not change the essential character of the area in which it is proposed;
 - (2) Be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, and water and sewage facilities;
 - (3) Not create excessive additional requirements at public cost for public facilities and services; and
 - (4) Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production or effects of traffic, noise, smoke, fumes, glare, or odors.

Section 12-5. Terms and Conditions of Approval.

The planning commission may stipulate any additional conditions and safeguards deemed necessary to accomplish the purposes of this section. Failure to comply with the conditions may result in the revocation of the special land use approval, as stated in section 12-7. Conditions imposed shall be those necessary to ensure that the proposed special land use will:

- (1) meet the intent and purpose of this article;
- (2) relate to the requirements established in article 13 for the land use or activity under consideration;
- (3) not create nuisances affecting adjacent or surrounding properties;
- (4) protect the general welfare;
- (5) not negatively impact individual property rights; and
- (6) ensure that the intent and objectives of this article will be observed.

Section 12-6. Effectiveness of Approval.

- (a) The special use or activity shall commence or be under construction within one year of the date of its approval, and construction shall proceed to completion without unreasonable delay.
- (b) The planning commission may approve one extension for up to 12 additional months if a request is made by the applicant, in writing, prior to the initial expiration. The extension shall be approved only if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant and the project will proceed within the extension period.
- (c) If not commenced or under construction during the initial one year or subsequent extension period, the approval shall become null and void.

Section 12-7. Violation of Special Land Use Requirements.

- (a) The planning commission shall have the authority to suspend or revoke a special use approval when the applicant has failed to comply with any of the applicable requirements of this article, other applicable sections of this ordinance, or the conditions of approval.
- (b) Prior to revocation, the planning commission shall conduct a public hearing following the notification procedures for the original approval.
- (c) Conditions that may result in a suspension or revocation include, but are not limited to, the following:
- (1) the special use was not constructed in conformance with the approved plans, or the property is not being used in conformance with the approved special use;

- (2) compliance with the special use permit and any conditions have not been consistently demonstrated, and administrative attempts to secure compliance have been unsuccessful;
 - (3) a violation exists and has not been remedied following notification of the violation;
 - (4) the special use permit has been issued erroneously based on incorrect or misleading information supplied by the applicant and/or the applicant's agents;
 - (5) operation of the use granted by the special use permit has created a risk or danger to the public health, safety, or welfare; or
 - (6) the special use violates any provision of this ordinance or other city, county, state, or federal regulations.
- (d) If the zoning administrator determines that a special use permit should be suspended or revoked, the zoning administrator shall prepare a report specifying the factual details of the violation and the reasons to suspend or revoke the permit.
- (e) The zoning administrator shall file the report with the planning commission and provide a copy to the owner, authorized agent, or employee by certified mail, return receipt requested.
- (f) Within 30 days of filing the report with the planning commission, a hearing date will be set for the planning commission to consider the alleged violation(s) to determine if the special use permit should be suspended or revoked. The owner or authorized agent shall be notified personally or by certified mail, return receipt requested, not less than 15 days before the scheduled hearing, in compliance with the Zoning Act.
- (g) The owner shall have an opportunity to respond to any allegations made by questioning adverse witnesses; presenting witnesses on the owner's behalf; and presenting arguments, personally or through legal counsel, in the owner's own behalf.
- (h) The planning commission shall prepare a written report of its findings within 30 days of completing all hearings and provide the report to the owner either personally or by certified mail, return receipt requested. If the planning commission concludes that the special use permit must be suspended or revoked, the owner shall immediately cease to conduct, operate, or carry on the business or use for which the special use approval was granted.

Section 12-8. Appeals.

The planning commission's decision regarding approval or denial of a special use application may not be appealed to the zoning board of appeals.

ARTICLE XIII. SPECIAL LAND USE REQUIREMENTS.

Section 13-1. Accessory dwelling as part of a business use.

- (a) Only one dwelling shall be permitted for the purpose of housing an owner, employee, caretaker, or security person and their immediate family on the property.
- (b) The planning commission may establish other conditions regarding size and location to ensure that the dwelling remains accessory to the business use.

Section 13-2. Accessory dwellings.

- (a) Only one accessory dwelling shall be permitted on a lot or parcel in addition to the accessory building(s) otherwise permitted.
- (b) The accessory dwelling unit shall contain not less than 350 square feet and not more than 40 percent of the usable floor area of the principal dwelling.
- (c) The accessory dwelling, if attached, shall be designed as an independent housekeeping unit that can be isolated from the principal dwelling space.
- (d) At least one parking space shall be provided for the accessory dwelling unit in addition to that required for the principal dwelling. Access to that space shall be from the driveway serving the principal dwelling.
- (e) The owner of the principal dwelling shall reside in either the principal dwelling or the accessory dwelling throughout the duration of the use of the accessory dwelling.
- (f) A deed restriction or other restrictive covenant shall be recorded with the Ionia County Register of Deeds and attached to the lot or parcel, stating that neither the principal dwelling nor the accessory dwelling may be sold independently of one another.

Section 13-3. Adult foster care, small and large group home, and congregate care facility.

- (a) The facility shall be at least 1,500 feet from any other similar facility.
- (b) Adult foster care congregate facilities shall have frontage on and direct access to an arterial or collector street, as defined in the City of Portland Master Plan.

Section 13-4. Airstrips and landing fields.

- (a) Airports shall have frontage on and direct access to a paved street.
 - (b) A six-foot chain link fence shall be erected along any hazardous areas as a barrier to prevent the attendant hazards of inadvertent entries onto the airport property.
 - (c) All lights, used for landing strips and other lighting facilities, shall be so arranged as not to reflect towards adjoining properties.
 - (d) All hangers, runways, and outdoor storage areas shall be at least 100 feet from all property lines.
 - (e) The storage and handling of flammable liquids, liquefied petroleum gases, and explosives shall comply with state rules and regulations, as established by the Fire Prevention Code, Public Act No. 207 of 1941 (MCL 29.1 et seq.).
 - (f) Off-street parking shall be provided in sufficient amounts for employees, patrons, and visitors and shall not be less than one parking space for each one employee, and one parking space for each one aircraft harbored at the airport.
 - (g) Where the site abuts a residential district, a type "A" buffer shall be provided in accordance with the buffer requirements of section 10-5. In addition, the planning commission, in its reasonable discretion, may require additional fencing, berms, or walls to mitigate noise and light, as well as security fencing to prevent trespass.
 - (h) All applicable state and federal aviation safety regulations shall be met.
-

Section 13-5. Banquet hall and/or conference center.

- (a) The facility shall have frontage on and direct access to an arterial or collector street, as listed in the City of Portland Master Plan.
- (b) Minimum lot size shall be two acres with a minimum of 200 feet of frontage.
- (c) Access to the site shall be located at least 150 feet from any street intersection, as measured from the edge of pavement to edge of pavement.
- (d) The planning commission may establish conditions related to outdoor seating/gathering spaces, hours of operation, use of amplified sound, and other aspects of the proposed use that may have negative impacts upon nearby residential property.

Section 13-6. Bed and breakfast establishment.

- (a) A scaled floor plan of the premises shall be submitted as part of the application.
- (b) The bed and breakfast operation shall be the principal residence of the property owner who shall reside on the premises.
- (c) The bed and breakfast shall contain no more than three sleeping rooms, including those occupied by the owner and his/her immediate family members.
- (d) Paved off-street parking shall be provided on the premises at the rate of one parking space per guest sleeping room and two spaces for the resident owner. The required parking shall not be permitted within the front yard.
- (e) One nonilluminated sign, not exceeding six square feet in area, is permitted. The sign may be a freestanding sign no taller than six feet and setback at least 10 feet from the street right-of-way line or a wall sign placed flat against the dwelling.
- (f) All refuse and/or trash containers shall be enclosed within a privacy fence or other suitable enclosure and shall not be located in the front yard.
- (g) No premises shall be utilized for a bed and breakfast operation unless there are at least two exits to the outdoors from the premises. Rooms utilized for sleeping shall have a minimum area of 100 square feet.
- (h) Meals shall be served only to residents and overnight guests.
- (i) No receptions, private parties, or similar group activities for which a fee is paid shall be permitted.
- (j) The maximum stay for any occupant of the bed and breakfast shall be 14 consecutive days.
- (k) No sleeping room shall be located in a basement or cellar.

Section 13-7. Bus passenger station.

- (a) Minimum lot size shall be two acres with at least 150 feet of frontage on and direct access to an arterial street, as listed in the City of Portland Master Plan.
- (b) A vehicle waiting/drop off area of not less than 10 spaces shall be provided on-site.
- (c) Passenger loading areas shall be lighted.
- (d) Public access to the site shall be located at least 150 feet from any intersection, as measured from nearest pavement edge to nearest pavement edge.

Section 13-8. College or university.

- (a) Minimum lot size shall be three acres with a minimum of 250 feet of frontage on and direct access to an arterial street, as listed in the City of Portland Master Plan.
- (b) Access to the site shall be located at least 150 feet from any street intersection, as measured from the nearest edge of pavement to nearest edge of pavement.

- (c) Main and accessory buildings shall be set back at least 40 feet from side and rear property lines and 30 feet from the front property line.

Section 13-9. Commercial mini-storage.

- (a) Minimum site size shall be two acres. No more than 60 percent of the lot may be used for buildings, parking lots and access.
- (b) The lot shall have frontage on and direct access to an arterial street, as listed in the City of Portland Master Plan.
- (c) A six-foot, sight-obscuring fence of a material acceptable to the planning commission, shall enclose the area occupied by the use. The fence shall be set back at least 30 feet from the front property line.
- (d) The front yard, up to the fence shall be landscaped in accordance with any streetscape requirements of article X.
- (e) There shall be a minimum of 25 feet between storage facilities for driveway, parking, and fire lane purposes.
- (f) Traffic circulation and parking shall be identified by signs or painting.

Section 13-10. Convalescent or nursing home.

- (a) Minimum site size shall be three acres with at least 200 feet of width.
- (b) The lot location shall be such that at least one property line has frontage on and direct access to an arterial or collector street, as listed in the City of Portland Master Plan. Ingress and egress for off-street parking areas shall be directly from that street.
- (c) Main and accessory buildings shall be set back at least 75 feet from all property lines.
- (d) The site shall be designed to provide a minimum of 500 square feet of open space for every occupant, based on the maximum number of occupants for which the facility is licensed. This open space shall be landscaped and may include required yards, pathways, patios, decks, activity and event spaces, and other such leisure amenities.
- (e) Access to the site shall be located at least 150 feet from any street intersection, as measured from the nearest pavement edge to nearest pavement edge.

Section 13-11. Day care center.

- (a) The site shall have frontage on and direct access to an arterial or collector street, as listed in the City of Portland Master Plan.
- (b) Driveway access shall be located at least 150 feet from any street intersection, measured nearest pavement edge to nearest pavement edge.
- (c) The facility shall not operate between the hours of 8:00 p.m. and 6:00 a.m. unless the site property line is at least 300 feet from the nearest residential district boundary.
- (d) All outdoor play/activity areas shall be a minimum of 50 feet from a residential district and enclosed with fencing, a minimum of four feet high.
- (e) Activities associated with child care shall not be permitted in any accessory building, structure, or garage.
- (f) A useable outdoor play/activity area shall be provided at the ratio of at least 66 square feet for each child for which the facility is licensed, or as required by the state, whichever is greater.
- (g) An off-street drop-off area shall be provided for temporary pick-up and drop-off. One temporary drop-off space per 10 children the facility is licensed to accept shall be provided in addition to parking required by this ordinance. Drop-off spaces shall be marked and distinguished as such. Additionally, one stacking space per five children the facility is licensed to accept shall be provided to allow space for vehicles waiting for the temporary drop-off location. Stacking spaces shall conform to section 9-6(c).

Stacking spaces and drop-off spaces shall be located so as not to interfere with circulation on or off the site.

Section 13-12. Day care home, group.

- (a) Driveway access shall be located at least 150 feet from any street intersection, measured nearest pavement edge to nearest pavement edge.
- (b) The facility shall not operate between the hours of 7:00 p.m. and 6:00 a.m.
- (c) A useable outdoor play/activity area shall be provided at the ratio of at least 66 square feet for each child for which the facility is licensed, or as required by the state, whichever is greater.
- (d) Outdoor play/activity areas shall be located in the rear yard, enclosed with fencing a minimum of four feet high, and such fence shall be no closer than 50 feet to any side or rear lot line.
- (e) Activities associated with child care shall not be permitted in any accessory building, structure, or garage.

Section 13-13. Drive through facility other than a restaurant (e.g., bank, pharmacy, dry-cleaner).

- (a) The site shall have frontage on and direct access to a collector or arterial street, as listed in the City of Portland Master Plan.
- (b) The service window(s) shall be set back a minimum of 60 feet from any adjacent right-of-way line.
- (c) Driveway access to the site shall be located at least 150 feet from any street intersection, as measured from the nearest edge of pavement to nearest edge of pavement.
- (d) A minimum of four stacking spaces shall be provided at each drive-through service window and shall conform to the requirements of section 9-6(c).
- (e) Outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

Section 13-14. Dwelling units located on the ground floor.

- (a) A dwelling unit may be located on the ground floor of a building within the C-1 downtown district, if approved as a special land use.
- (b) That portion of the building's ground floor fronting a street or walkway shall only be used for non-residential uses as permitted in the C-1 district.
- (c) The dwelling unit shall be located on the rear or side of the building and not visible from the street or walkway on which the property is located.
- (d) There shall be a separate entrance to the dwelling unit which shall not be located on the front of the building.

Section 13-15. Elementary, middle, and high school (private).

- (a) Minimum site size shall be one acre with at least 150 feet of frontage on and direct access to a collector or arterial street, as listed in the City of Portland Master Plan.
- (b) Public access to the site shall be located at least 150 feet from any street intersection, as measured from the nearest edge of pavement to nearest edge of pavement.
- (c) Maximum height of buildings shall not exceed 45 feet.
- (d) Front and rear setbacks shall be at least equal to the height of the building. A side yard of at least 20 feet is required on each side of any portion of the building.
- (e) Screening shall be provided along all property lines within a residential zoning district. Such screening shall consist of a type "C" buffer as specified in section 10-5.

Section 13-16. Golf course or country club.

- (a) The minimum site area shall be 80 acres for a nine-hole course and 160 acres for an 18-hole course and shall be so designed to provide all ingress and egress directly onto or from a collector or arterial street.
- (b) Where the site abuts or is within a residential district, a type “C” buffer as specified in section 10-5 shall be provided.
- (c) A minimum 25-foot wide natural vegetation strip shall be maintained between turf areas and natural water bodies, watercourses, or wetlands. The natural vegetation strip shall not be chemically treated.
- (d) The outdoor storage of trash or rubbish shall be screened in accordance with article X.
- (e) Accessory uses may include clubhouse/pro shop, managerial facilities, maintenance shed, lockers, restaurant and bar, meeting rooms, banquet facilities, driving range, tennis courts, racket sport areas, and swimming facilities.
- (f) Major accessory uses such as a restaurant, bar, meeting rooms, and banquet facilities shall be housed within the clubhouse. Minor accessory uses strictly related to the operation of the golf course itself, such as maintenance garage, pro shop, or golf shop, may be located in separate structures.
- (g) No outdoor loudspeaker or call system shall be audible from adjoining property.
- (h) No dwelling units shall be provided on the premises except for living quarters for a resident manager, watchman, or caretaker and shall meet the special use requirements of this ordinance.
- (i) A golf driving range accessory to the principal use of the golf course is permitted provided the area devoted to this use shall maintain a 75-foot front yard and a 100-foot side and rear yard setback. The area shall be buffered by natural vegetation and fencing to minimize the impact upon adjoining properties.

Section 13-17. Hospital.

- (a) Ingress and egress to the site, including ambulances, shall be only from an arterial street, as listed in the City of Portland Master Plan.
- (b) The minimum site size shall be five acres with a minimum of 200 feet of frontage.
- (c) Access to the site shall be located at least 150 feet from any street intersection, as measured from the nearest edge of pavement to nearest edge of pavement.
- (d) The minimum setback required of any building two stories or more in height shall be 50 feet from all lot lines.
- (e) Noise-producing activities, such as ambulance and delivery areas, laundry, or power plants, shall not be located closer than 100 feet from any residential district.
- (f) Ambulance and delivery areas shall be obscured from the view of adjoining residential districts by a solid masonry wall six feet in height.
- (g) Where the site abuts or is within a residential district, a type “A” buffer shall be provided, as specified in section 10-5.

Section 13-18. Kennel, commercial.

- (a) The minimum site area for a commercial kennel shall be two acres.
- (b) Buildings housing animals shall not be located within 100 feet of any property line or street right-of-way.
- (c) Outdoor pens shall be fenced by a chain link fence or wall eight feet in height and located at least 200 feet from any residential district.

Section 13-19. Mortuary or funeral home.

- (a) Minimum site area shall be two acres with at least 200 feet of frontage.

- (b) The site shall front upon and have direct access to an arterial street, as listed in the City of Portland Master Plan. All ingress and egress shall be from that street.
- (c) Public access to the site shall be located at least 150 feet from any street intersection as measured from the nearest pavement edge to nearest pavement edge.
- (d) An off-street vehicle assembly area shall be provided to accommodate queueing for funeral processions. This area shall not obstruct internal circulation within the required off-street parking area and shall be sufficient to ensure vehicles will not stack into the abutting street.
- (e) A caretaker's residence meeting the special use requirements of this ordinance may be provided within the main building.

Section 13-20. Motor freight transportation/trucking terminal.

- (a) Minimum site size shall be 10 acres with a minimum frontage of 400 feet.
- (b) No structures, parking areas, or facilities shall be located within 40 feet of the front property line.
- (c) No portion of any structure, facility, access drive, or parking area shall be located within 300 feet of any residential district.
- (d) All walls facing a public right-of-way shall be faced in brick, split block, or stone over at least 25 percent of that wall. Sheet metal is prohibited on any wall facing a public street.
- (e) Except for the required front yard setback area, all developed areas of the site shall be enclosed by a minimum six-foot high chain link fence. Barbed wire on top may be approved by the planning commission for security.
- (f) Lighting shall be installed and shielded in a manner which shall not create a driving hazard on adjacent streets or cause direct illumination on adjacent property.
- (g) All truck terminal access drives shall be located on a designated Class A county road or a local street meeting the same standards; provided, no access shall be permitted on streets within a residential district.
- (h) Deceleration lanes may be required by the planning commission after city engineer review.
- (i) Access driveways shall be located at least 200 feet from any street intersection, measured from nearest pavement edge to nearest pavement edge.
- (j) Disabled or inoperable trucks and on-site trailer storage shall be located within an enclosed building or screened rear yard.
- (k) No trailers shall be stored on site for use as storage containers.
- (l) Truck wash facilities shall be considered an accessory use but shall not be made available as a commercial venture.

Section 13-21. Municipal and public service activities.

- (a) The proposed site shall abut and have direct access to a paved street.
- (b) Outdoor storage shall be fenced and screened in accordance with the requirements of this ordinance. Barbed wire may be permitted by the planning commission for security purposes.

Section 13-22. Open air business.

- (a) Minimum site area shall be one acre.
- (b) Minimum width shall be 200 feet.
- (c) The planning commission may require a six-foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
- (d) All parking, storage, and display areas shall be set back at least 30 feet from any right-of-way line and 15 feet from any side or rear property line.

- (e) The lot area used for parking, storage, and display of merchandise shall be paved with asphalt or concrete; provided, permeable pavers may be approved by the planning commission for storage and/or display areas.
- (f) Ingress and egress shall be provided from a collector or arterial street, as listed in the City of Portland Master Plan, and shall be at least 150 feet from a street intersection, measured nearest pavement edge to nearest pavement edge.
- (g) All lighting shall be shielded from adjacent properties.
- (h) All loading activities and parking shall occur on the site (off-street).
- (i) The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent blowing dust, odor, or other adverse effect upon adjacent properties.

Section 13-23. Parking lots, loading areas and storage areas for equipment and machinery easily moved or not subject to flood damage.

- (a) The site shall be located within the Floodplain Overlay District.
- (b) No permanent structures shall be located on the property.
- (c) Security fencing may only be permitted if approved by the planning commission.

Section 13-24. Pawnshop.

- (a) The site shall abut and have direct access to an arterial street, as listed in the City of Portland Master Plan.
- (b) The lot shall be at least 300 feet from the lot line of any property occupied by a public library, public or private school, playground, play field, place of religious worship, or hospital.
- (c) Outdoor storage is prohibited.
- (d) The facility shall be properly licensed by the state and adhere to rules promulgated for secondhand stores.

Section 13-25. Place of religious worship.

- (a) Minimum site size shall be two acres; plus an additional 15,000 square feet for each 100 seating capacity or fraction thereof in excess of 100.
- (b) Minimum lot width shall be 200 feet abutting and having direct access to a collector or arterial street, as listed in the City of Portland Master Plan.
- (c) Access driveways shall be located no less than 150 feet from any intersection of any street or 75 feet from any residential driveway, measured pavement edge to pavement edge.
- (d) Where the site abuts or is within a residential district, the main and accessory buildings and structures shall be set back at least 50 feet from any residential property line and a type "C" buffer shall be provided as specified in section 10-5.
- (e) Lighting for parking or outdoor activity areas shall be shielded to prevent light from spilling over the property line.
- (f) A child care center may be operated as an accessory use if approved as part of the special use for the place of religious worship.

Section 13-26. Recreation facility, indoor (e.g., arcades, bowling, billiards).

- (a) Minimum site size shall be one acre.
- (b) Minimum width shall be 150 feet.
- (c) The site shall front on and have direct access to an arterial or collector street, as listed in the City of Portland Master Plan.
- (d) All driveways shall be located no closer than 150 feet to any street intersection, measured nearest pavement edge to nearest pavement edge.

Section 13-27. Recreation facility, outdoor (e.g., mini-golf, batting cages).

- (a) Minimum site size shall be three acres.
- (b) Minimum site width shall be 200 feet abutting and having direct access to a collector or arterial street, as listed in the City of Portland Master Plan.
- (c) All driveways shall be located no closer than 150 feet from any street intersection, measured nearest pavement edge to nearest pavement edge.
- (d) No building, structure, activity area, storage, or other use of the site shall be located within 50 feet of any public street.
- (e) Where the site abuts a residential district, outdoor loudspeaker systems shall not be permitted.

Section 13-28. Restaurant with drive-through facility.

- (a) Minimum site size shall be one acre and minimum width shall be at least 125 feet abutting and having direct access to an arterial street, as listed in the City of Portland Master Plan.
- (b) A minimum of 10 stacking spaces per ordering station shall be provided in addition to two parking spaces for customers waiting for order delivery. The stacking space requirement may be increased by the planning commission based on the data and evidence that satisfactorily demonstrates typical and peak usage of the drive-through at other comparable locations. The location and arrangement of the drive-through shall assure compliance with all requirements of section 9-6(c) regarding access and circulation.
- (c) Access driveways shall be located no less than 150 feet from any street intersection or 75 feet from any other driveway, measured nearest pavement edge to nearest pavement edge.
- (d) Menu/speaker boards shall be located, positioned, and controlled to minimize noise impacts. No menu/speaker board shall be located within 100 feet of a residential district boundary and shall not face a residential district.
- (e) Pedestrian elements shall be incorporated into the site plan including such features as outdoor seating areas, safe walkways to the restaurant, and measures to separate pedestrian and vehicular traffic in the areas nearest drive-through windows.

Section 13-29. Retail building supplies and equipment stores with outdoor storage.

- (a) All materials stored outside of an enclosed building shall be screened on all sides from view by a fence, wall, landscaping, or combination thereof no less than six feet high and no greater than eight feet high.
- (b) The outdoor storage area shall not be located in any front yard and shall meet the required side and rear yard setback requirements of the zoning district.

Section 13-30. Sexually oriented businesses.

- (a) It is the intent of this section to provide regulations controlling those uses recognized as having serious, objectionable, operational characteristics inducing a potentially detrimental impact on adjacent uses and areas. Special regulations of these uses are necessary to ensure that the anticipated adverse impacts will not contribute to the blighting or downgrading of the surrounding neighborhood. Uses subject to these controls include adult bookstores, adult motion picture theaters, nude artist and photography studios, and adult cabarets.
- (b) Establishments where sexually oriented businesses are located shall not be expanded in any manner without first applying for and receiving approval as required by this ordinance.
- (c) The sexually oriented businesses shall have frontage on and direct access to an arterial street, as listed in the City of Portland Master Plan.

- (d) A sexually oriented businesses shall not be located within 500 feet of another existing sexually oriented businesses or within 1,000 feet of any residential district, place of religious worship, school, park, or playground.
- (e) Signs for the sexually oriented businesses shall comply with the requirements of the city sign ordinance and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, nor include any animation or flashing illumination.
- (f) Signs shall be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering or exiting the business, using lettering which is at least two inches in height, that state:
 - (1) "Persons under the age of 18 years are not permitted to enter the premises."
 - (2) "No alcoholic beverage of any type is permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
- (g) No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.
- (h) No sexually oriented businesses shall be open to patrons prior to 10:00 a.m. nor after 10:00 p.m. However, employees or other agents, or contractors of the business are permitted to be on the premises at other hours for legitimate business purposes such as maintenance, cleaning, preparation, recordkeeping, and similar purposes not involving the general public.

Section 13-31. Stable (commercial).

- (a) The site shall be at least 10 acres.
- (b) All buildings shall meet the minimum setback requirements of the zoning district.
- (c) Paddocks and outdoor show arenas shall be no closer than 100 feet to any property line.
- (d) Storage of manure shall be no closer than 200 feet to any property line.
- (e) Designated parking areas may be gravel, if not otherwise paved.

Section 13-32. Truck wash.

- (a) The minimum site area shall be one acre with a minimum frontage of 200 feet.
- (b) The minimum front yard setback for the structure shall be 100 feet; minimum side yard setback shall be 50 feet; minimum rear yard setback shall be 100 feet.
- (c) The lot shall have frontage on and direct access to an arterial street, as listed in the City of Portland Master Plan. All parking, stacking, and maneuvering of vehicles shall occur on the site. Vehicle queueing shall not be permitted on an adjacent street or alley.
- (d) No part of any drive or curb opening shall be located closer than 200 feet to any street intersection or 150 feet to any other driveway on the same side of the street, as measured from nearest pavement edge to nearest pavement edge.
- (e) No more than one driveway or a one-way pair of driveway openings shall be located on a street.
- (f) Additional vehicle related uses such as vehicle service stations may be permitted on the same premises; provided, such uses shall be subject to special land use approvals, if applicable.
- (g) All washing activities shall be within a building.
- (h) Wastewater shall be filtered or otherwise cleansed to minimize discharge of soap, wax, and solid matter into the public sewer.
- (i) No activity shall emit noise that is readily discernible to the average person in any residential district; provided, air handling equipment in proper working condition deemed to comply with this provision may be located on a roof with intervening noise reduction baffles. Nothing herein shall be interpreted to relieve the property owner or operator of the need to comply with all noise regulations of the city.

- (j) Vacuuming activities shall be at least 150 feet from any residential district.
- (k) Areas of the site used for parking, access, circulation, or staging shall be surfaced with concrete or bituminous surfacing to control dust and provide adequate drainage.
- (l) There shall be no aboveground outdoor storage/dispensing tanks on the site.
- (m) All drains shall be connected to a public storm sewer system.
- (n) Vehicle wash facilities shall not be operated between the hours of 8:00 p.m. and 8:00 a.m. if the site abuts a residential district.
- (o) A type "A" buffer, as specified in section 10-5, shall be required along any property line abutting a residential district.

Section 13-33. Utility substation, transmission line and switching station.

- (a) Materials and colors on the exterior of any building shall be of the type and quality generally found within the surrounding area.
- (b) Buildings shall be no closer than 30 feet to any property line.
- (c) A security fence at least six feet in height shall be constructed around the perimeter of the building.
- (d) Where the site abuts or is within a residential district, screening shall be provided along that property line in accordance with the type "C" buffer requirements, as specified in section 10-5.

Section 13-34. Vehicle repair, major.

- (a) The minimum lot size shall be one-half acre with a minimum of 150 feet of frontage on an arterial street, as listed in the City of Portland Master Plan.
- (b) The facility shall meet all licensing requirements of the State of Michigan, the County of Ionia, and the city.
- (c) All buildings, structures, and equipment shall meet the minimum setback requirements of the zoning district, but not less than 40 feet from any right-of-way line, and not less than 20 feet from any side or rear lot line; provided, a setback of at least 75 feet shall be required from any property line abutting a residential district.
- (d) A type "A" buffer, as specified in section 10-5, shall be required along any property line abutting a residential district.
- (e) No part of any drive or curb opening shall be located nearer than 75 feet to any street intersection or to any other driveway, measured nearest pavement edge to nearest pavement edge.
- (f) All lubrication equipment, hydraulic hoists, and pits shall be enclosed entirely within a building and all repair, servicing, or other related activities shall take place within the building.
- (g) Parking and storage areas shall be provided for disabled, wrecked, or partially dismantled vehicles awaiting repair and shall be located entirely within the side or rear yard. All vehicle parking and storage areas shall be paved with asphalt or concrete. The storage area shall be located entirely within the side or rear yard and screened from the view from any abutting property by a six foot opaque fence or wall.
- (h) Outside storage areas for trash, used tires, auto parts, and similar items shall be located entirely within the side or rear yard and enclosed by a six-foot opaque wall or fence; provided, no outside storage area shall exceed an area of 200 square feet.
- (i) The rental of trucks, trailers, and any other vehicles on the premises shall not occupy required setbacks or parking areas.
- (j) Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two vehicles.
- (k) Hours of operation shall not have an adverse effect on adjoining areas and shall be subject to planning commission review.

(l) The applicant shall submit a pollution incidence protection plan (PIPP) as part of the application. The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain catch basins and automatic shut off valves.

Section 13-35. Vehicle sales

- (a) The minimum site area shall be one acre and the minimum site width shall be 250 feet along an arterial street, as listed in the City of Portland Master Plan. All access to the site shall be from such street.
- (b) No part of any drive or curb opening shall be located nearer than 150 feet to any street intersection or 100 feet to any other driveway on the same side of the street, as measured from nearest pavement edge to nearest pavement edge.
- (c) The facility shall meet all licensing requirements of the State of Michigan, the County of Ionia, and the city.
- (d) All buildings, structures, display areas, and equipment shall be located at least 50 feet from any right-of-way line, and not less than 30 feet from any side or rear lot line.

Section 13-36. Vehicle service station.

- (a) The site area shall be a minimum of one acre and the minimum site width shall be 200 feet along an arterial street, as listed in the City of Portland Master Plan.
- (b) No part of any drive or curb opening shall be located nearer than 150 feet to any street intersection or 100 feet to any other driveway on the same side of the street, as measured from nearest pavement edge to nearest pavement edge.
- (c) Vehicle fuel stations and buildings shall be located not less than 50 feet from any right-of-way line or from any side or rear lot line.
- (d) Accessory businesses located on the premises such as wash facilities, vehicle repair, and drive-through restaurants shall be subject to separate special land use approvals as provided for in this article.
- (e) All storage of material, merchandise, and equipment shall be within the building.
- (f) Gasoline or other flammable mixtures shall not be used to wash down the premises.
- (g) A pollution incidence protection plan (PIPP) shall be submitted as part of the special use application. The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain catch basins and automatic shut off valves.
- (h) In the event that a vehicle service station has been abandoned or not used as a vehicle service station for a period of more than one year, resumption of that use on the property shall require filing an application for a new special use approval in accordance with all applicable requirements of this ordinance.

Section 13-37. Vehicle wash facility.

- (a) The minimum lot area shall be one-half acre with a minimum frontage of 100 feet.
- (b) The minimum front yard setback for the structure shall be 50 feet; minimum side yard setback shall be 25 feet; minimum rear yard setback shall be 50 feet; provided, a minimum setback of 75 feet shall be required along any property line abutting a residential district.
- (c) A type "A" buffer, as specified in section 10-5, shall be required along any property line abutting a residential district.
- (d) The lot shall have frontage on and direct access to an arterial street, as listed in the City of Portland Master Plan. All parking, stacking, and maneuvering of vehicles shall occur on the site. Vehicle queueing shall not be permitted on an adjacent street or alley.

- (e) No part of any drive or curb opening shall be located nearer than 150 feet to any street intersection or 100 feet to any other driveway on the same side of the street, as measured from nearest pavement edge to nearest pavement edge.
- (f) No more than one driveway or a one-way pair of curb openings shall be located on a street.
- (g) Additional vehicle related facilities such as vehicle service stations may be permitted on the same premises; provided, the uses shall be subject to special land use approvals, if applicable.
- (h) All washing activities shall be within a building.
- (i) Wastewater shall be filtered or otherwise cleansed to minimize discharge of soap, wax, and solid matter into the public sewer.
- (j) No activity shall emit noise that is readily discernible to the average person in any residential district; provided, air handling equipment in proper working condition deemed to comply with this provision may be located on a roof with intervening noise reduction baffles. Nothing herein shall be interpreted to relieve the property owner or operator of the need to comply with all noise regulations of the city.
- (k) Vacuuming activities shall be at least 100 feet from any residential district boundary.
- (l) Areas of the site used for parking, access, circulation, or staging shall be hard-surfaced with asphalt or concrete to control dust and provide adequate drainage.
- (m) There shall be no aboveground outdoor storage/dispensing tanks on the site.
- (n) All drains shall be connected to a public storm sewer system.
- (o) Vehicle wash facilities shall not be operated between the hours of 11:00 p.m. and 7:00 a.m.

Section 13-38. Whole-house lodging.

- (a) Registration.
 - (1) Property owners shall register each establishment annually with the city.
 - (2) A registration number shall be assigned to each registered establishment, which shall be clearly noted along with any advertisement for lodging.
 - (3) As part of the annual registration requirement, an inspection of the dwelling shall be conducted to ensure compliance with all applicable building and safety codes.
- (b) Restrictions.
 - (1) Preparation and service of food by the owner/operator for guests shall be prohibited. No cooking shall be permitted in individual bedrooms.
 - (2) All applicable building and fire codes shall be met.
 - (3) Use of the dwelling unit by guests for parties, events, classes, weddings, receptions, and other large gatherings of more than eight persons shall be prohibited.
- (c) Contact Information. The owner of the property shall provide the name, address, phone number, and email address of a designated local contact person who shall reside within a 30 minute drive of the dwelling unit and be readily available at all times during which the dwelling is rented for the purpose of responding to concerns or complaints regarding the use of the short-term rental. The contact information shall be filed with the annual registration information and the city's Department of Public Safety. Any change regarding the contact person or the person's contact information shall be promptly provided to the city.
- (d) Notice Posted. Written notice shall be conspicuously posted inside each whole-house lodging unit setting forth the following information:
 - (1) The name and telephone number of the owner/operator and the designated contact person, if different from the owner/operator.
 - (2) The address of the dwelling, the maximum number of overnight occupants permitted, and the day(s) established for trash collection.
 - (3) The maximum number of vehicles allowed.

- (4) The non-emergency phone number of the city's Department of Public Safety.
 - (5) The annual registration documentation.
 - (6) The prohibition of parties, events, classes, weddings, receptions, and other large gatherings.
- (e) Trash. The owner/operator shall ensure that all refuse is stored in appropriate containers and set out for collection on the proper collection day(s) and the carts removed from the street or alley on the scheduled collection day.
- (f) Parking.
 - (1) Parking facilities shall comply with the applicable requirements of article 9.
 - (2) At least one off-street parking space shall be provided for each bedroom in the whole-house lodging unit.
 - (3) All required parking shall be located within 100 feet of the building containing the whole-house lodging unit.
- (g) Occupancy Limit. Overnight occupancy shall be the lesser of the following; provided occupancy shall not exceed eight persons under any circumstance:
 - (1) two persons, plus two persons per bedroom; or
 - (2) two persons, plus two persons per on-site parking space.
- (h) Non-Transferability. Registration of whole-house lodging units shall be granted solely to the applicant and shall not be transferable to any other person or legal entity. The registration shall include a non-transferability clause and the use shall be terminated automatically upon the sale or change of ownership of the property for which a permit has been issued.
- (i) Violations.
 - (1) A property owner, as well as any owner/operator, shall be responsible for ensuring compliance with all federal, state, and local laws, including but not limited to tax code, building code, fire code, and environmental health regulations for the level of occupancy of the short-term lodging.
 - (2) Any use for which there are three final determinations of violations of the city code, this ordinance, and/or criminal convictions related to the property (within the dwelling unit or within the building containing the dwelling unit) by a property owner, tenant, guest, operator, lessee, or individual otherwise related directly to the property within any rolling 365 day period, shall constitute a violation of the terms of registration and shall terminate registration. For any registration that is terminated due to code/criminal violations, a property owner shall be ineligible for registration for a period of three years.

Section 13-39. Wireless communication tower when proposed tower is within the height limitations for the zoning district.

- (a) The minimum lot area shall be 20,000 square feet.
- (b) The tower shall be a monopole design unless the planning commission determines that an alternative design will not be out of character with the general vicinity in which the tower would be located.
- (c) The tower shall be set back from all lot lines a minimum distance equal to one-half the height of the tower. All other buildings and structures shall meet the minimum setback requirements of the zoning district.
- (d) A security fence at least six feet in height shall be constructed around the tower.
- (e) The tower shall be designed and constructed to accommodate Joint use with multiple antennas in order to minimize the number of separate towers at separate locations throughout the city. As a condition of approval, the applicant shall agree to permit future users to share the tower facility and

shall demonstrate that it is not feasible to locate the proposed tower on public lands or collocate on an existing tower.

(f) No new tower shall be erected within a one-half mile radius of an existing radio, television, cellular, or wireless communications tower.

(g) No signs, except warning or other cautionary signs, shall be permitted on the site.

DIVISION 4 – ADMINISTRATIVE PROVISIONS

ARTICLE XIV. SITE PLAN REVIEW

Section 14-1. Purpose.

The purpose of this article is to establish a uniform set of requirements for the planning and design of developments within the city in order to achieve the following objectives: to determine compliance with the provisions of this ordinance; to promote the orderly development of the city; to protect land values; to ensure a consistent level of quality throughout the community; to ensure a harmonious relationship between new development and the existing natural and manmade surroundings; to achieve the purposes of the City of Portland Master Plan; and to promote consultation and cooperation between applicants and the city in order that applicants may accomplish their objectives in the utilization of land, consistent with the public purposes of this ordinance and the master plan.

Section 14-2. Uses Requiring Review.

(a) *Planning commission review.* Site plan review by the planning commission shall be required prior to the establishment of a new use or the erection of a building in the districts and under the conditions specified below, unless otherwise specifically excepted or exempted by this section.

(1) All permitted uses in the following districts:

- a. R-3, Multiple-family residential;
- b. R-4, Manufactured home community;
- c. C-1, Central business;
- d. C-2, General business;
- e. C-3, Highway commercial;
- f. O-R, Office/Research/Business;
- g. IND, Industrial;

(2) Special land uses in all districts;

(3) Planned unit developments;

(4) Site condominiums in any district;

(5) Open space neighborhood developments.

(b) *Administrative review.* Site plan review shall be performed by the zoning administrator for the following.

(1) Non-residential permitted uses in an R-1 and R-2 district;

(2) Family day care and foster care facilities;

(3) Change of permitted use (not including special land uses) in any district that does not result in a change to an existing building footprint beyond the limits specified in subparagraph (4);

(4) Expansion of an existing building by not more than 2,000 sq. ft. or 25 percent of the existing floor area, whichever is less;

(5) Reconfiguration of an existing parking area that does not alter the number of parking spaces;

(6) Grading, excavation, filling, soil removal, creation of ponds, or tree clearing over one acre;

(7) Accessory buildings in excess of 960 sq. ft..

(8) Addition or relocation of:

- a. Driveways and entrances;
- b. Landscaping;

- c. Lighting;
- d. Refuse containers;
- e. Retention/detention ponds;
- f. Sidewalks;
- g. Signs.

(c) *Staff referral.* The zoning administrator has sole discretion to refer a site plan to the planning commission for review and action in accordance with the procedures and standards specified in this article.

(d) *Exempt uses.* The following uses shall be exempt from the site plan review requirements of this article:

- (1) One- and two-family dwellings;
- (2) Accessory buildings 960 sq. ft. in area or less and used for accessory uses.

Section 14-3. Site plan requirements.

Each preliminary or final site plan shall contain the following information, as applicable, unless waived by the zoning administrator or the planning commission as unnecessary or not applicable to the proposed project. Incomplete plans will be returned to the applicant without further processing.

Required Information	Preliminary Plan	Site Plan
General Information		
Date, north arrow, and scale	X	X
Name and firm address of the professional individual responsible for preparing site plan	X	X
Name and address of the property owner or petitioner	X	X
Location sketch showing site, adjacent streets, and properties within 500 feet	X	X
Size of subject property in acres (square feet, if less than one acre)	X	X
Legal description of the subject property		X
Boundary survey		X
Professional seal		X
Existing Conditions		
Zoning classification of subject property	X	X
Property lines and required setbacks (dimensioned)	X	X
Location, width, and purpose of all existing easements		X
Location and dimension of all existing structures on the subject property	X	X
Location of all existing driveways, parking areas and total number of existing parking spaces on subject property	X	X
Abutting street right-of-way width		X
Location of all existing structures, driveways, and parking areas within 300 feet of the subject property's boundary		X
Existing topography (five foot intervals)	X	X
Existing water bodies (lakes, rivers, creeks, wetlands, etc.)	X	X
Existing landscaping and vegetation on the subject property		X
Size and location of existing utilities		X
Location of all existing surface water drainage facilities		X
Proposed Development		
Location and dimensions of all proposed buildings	X	X
Required and proposed setbacks (dimensioned)	X	X

Required Information		Preliminary Plan	Site Plan
General location of driveways, interior streets, and parking areas (including number of parking spaces required and proposed)		X	
Generalized location of significant natural features (wetlands, floodplain boundaries, stands of trees, slopes)		X	
Location of all proposed drives (including dimensions and radii); acceleration/deceleration lanes, curbing, sidewalks, walls, fences, signs (location, number, and size); exterior lighting (location and type of fixture); parking areas (including dimensions of a typical parking space and total number of spaces required and to be provided); and unloading areas			X
Recreation areas, common use areas, dedicated open space and areas to be conveyed for public use			X
Flood plain areas and basement and finished floor elevations of all buildings; wetland boundaries; vegetation to be retained			X
Landscape plan (showing location of proposed materials, size and type)			X
Layout and typical dimensions of proposed parcels and lots			X
Number of proposed dwelling units (by type), including typical floor plans for each type of unit			X
Number and location (by code, if necessary) of efficiency and one or more bedroom units			X
All deed restrictions or covenants			X
Brief narrative description of the project including proposed use, existing floor area (square feet), size of proposed expansion (square feet), and any change in the number of parking spaces		X	X
Engineering			
Proposed method of handling sanitary sewage and providing potable water		X	
Location and size of proposed utilities, including connections to public sewer and water supply systems			X
Location and spacing of fire hydrants			X
Location and type of all proposed surface water drainage facilities			X
Grading plan at no more than five-foot contour intervals			X
Proposed streets (including pavement width, materials, and easement or right-of-way dimensions)			X
Building Details			
Description of building materials		X	X
Typical elevation views of all sides of each building type			X
Gross and net floor area		X	X
Elevation views of building additions		X	X
Building height		X	X
Additional Information			
Traffic impact assessment; traffic impact study	The planning commission may require a traffic impact assessment or traffic impact study pursuant to Institute of Transportation Engineers standards as part of final site plan review. The level of detail required shall be based upon the expected traffic to be generated by the proposed use, as noted below.		X

Required Information		Preliminary Plan	Site Plan
	<p>a. Traffic impact assessment: A traffic impact assessment shall be required for projects expected to generate either between 50—99 trips during the peak hour or 500—750 trips during a typical day. The assessment shall evaluate current and future inbound and outbound traffic operations at site access points and shall include proposed access design and other mitigation measures that will positively affect traffic operations at these points.</p> <p>b. Traffic impact study: A traffic impact study shall be required for projects expected to generate either 100 or more trips in the peak hour or over 750 trips on an average day. The study shall evaluate pedestrian access, circulation, and safety, and current, background, and future traffic operations at site access points and major signalized or nonsignalized intersections in proximity to the site. The study must also include proposed access design and other mitigation measures that will positively affect traffic operations at the site and nearby intersections. The study must take into account the master plan in analyzing future traffic developments.</p>		
Additional information, as may be required by the review authority		X	X

Section 14-4. Application and Review Procedures.

(a) *Complete application.*

(1) Administrative review. For projects subject to administrative review, only a preliminary plan meeting the requirements of section 14-3 is required. The required site plans (two full-sized 24x36 inch and one electronic), application form, and application fee shall be submitted to the zoning administrator. Incomplete applications shall not be accepted.

(2) Planning commission review. Required site plans (four full-sized 24x36 inch and one electronic), application form, application fee, and escrow fees (if applicable) shall be submitted to the zoning administrator, at least 20 days prior to the next regular planning commission meeting. If submitted within this time and determined to be a complete application, the zoning administrator shall cause the submittal to be placed on the agenda of the next regular planning commission meeting.

(b) *Preliminary plan.* At the discretion of the applicant, a preliminary site plan may be submitted for review by the planning commission. The purpose of the preliminary plan review is to obtain input from staff, consultants, and planning commission prior to incurring the expense of preparing the more detailed final plan in the event substantive changes are required.

- (c) *Decision.* The review authority (zoning administrator or planning commission) shall approve, approve subject to conditions, or deny the site plan, in accordance with the provisions of this article.
- (d) *Conditions.* Any conditions or modifications required by the review authority shall be specified in writing by the zoning administrator for administrative reviews or in the meeting minutes for planning commission reviews.
- (e) *Approved plans.* Two copies of the approved site plan shall be signed and dated by the zoning administrator or designee and the applicant. The city shall keep one of these approved copies on file, and one shall be returned to the applicant or the applicant's designated representative.
- (f) *Phased developments.*
- (1) If a proposed development is to be carried out in two or more phases, site plan approval may be granted for all phases or for a single phase. Approval for a single phase may be given if the applicant has first submitted a complete preliminary site plan of the development showing all proposed phases, and if such plan was approved by the planning commission.
 - (2) In such a case, each separate phase, when ready for planning commission consideration, shall be submitted for final site plan approval and shall be consistent with the preliminary site plan of the entire development, unless otherwise approved by the planning commission.
 - (3) In the consideration of a preliminary site plan of an entire development that will be constructed in phases, the planning commission may require information beyond that otherwise required for preliminary site plan review. Such additional information may include, but is not limited to, the locations and other details of the streets, utilities, storm water drainage systems, and other infrastructure and construction details common to the entire development.

Section 14-5. Conditions of Approval.

Conditions intended to ensure compliance with the intent of this ordinance and all other regulations of the city may be imposed upon the approval of a site plan. Approval may also be conditioned on the applicant receiving necessary city, county, state, and federal permits before site plan approval or an occupancy permit is granted.

Section 14-6. Criteria for Approval.

A site plan shall be approved only upon a finding of compliance with the following standards:

- (1) The site plan must comply with all provisions of this article and all applicable requirements of this ordinance and all other applicable laws and regulations of the city.
- (2) The site must be designed in a manner that is harmonious, to the greatest extent possible, with the character of the surrounding area.
- (3) The site must be designed to minimize hazards to adjacent property, and to reduce the negative effects of traffic, noise, smoke, fumes, and glare to the maximum extent reasonably possible.
- (4) Unless a more specific design standard is required by the city through a different ordinance, all uses and structures subject to site plan review shall comply with the following design standards:
 - a. Traffic Circulation. The number, location, size of ingress/egress points, and internal vehicular and pedestrian circulation routes shall be designed to promote safe and efficient access to and from the site, and circulation within the site. In reviewing traffic features, the number, spacing, and alignment of existing and proposed access

points shall be considered relative to their impact on traffic movement on abutting streets and adjacent properties.

- b. Storm water. Storm water detention and drainage systems shall be designed so the removal of surface waters will not adversely affect neighboring properties or public storm water drainage systems. Unless impractical, storm water shall be removed from all roofs, canopies, and paved areas by underground surface drainage system.
- c. Landscaping. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing unnecessary tree and soil removal. Any grade changes shall be in keeping with the general appearance of neighboring developed areas. Provision or preservation of landscaping, buffers, or streetscapes may be required to ensure that the proposed uses will be adequately shielded from one another and from surrounding property.
- d. Screening. Where non-residential uses abut residential uses, appropriate screening shall be provided to shield residential properties from noise, headlights and glare.
- e. Lighting. Lighting shall be designed to minimize glare on adjacent properties and public streets. As a condition of site plan approval, reduction of lighting during non-business hours may be required.
- f. Utility Service. All utility service shall be underground, unless impractical.
- g. Exterior Uses. Exposed storage areas, machinery, heating and cooling units, service areas, loading areas, utility buildings and structures, and similar accessory areas shall be located to have a limited negative effect on adjacent properties, and shall be screened, if reasonably necessary, to ensure compatibility with surrounding properties.
- h. Emergency Access. All buildings and structures shall be readily accessible to emergency vehicles.
- i. Water and Sewer. Water and sewer installations shall comply with all city specifications and requirements.
- j. Signs. Permitted signs shall be located to avoid creating distractions and visual clutter.
- k. Building Design. New or substantially remodeled buildings shall be reasonably compatible in appearance with, or shall enhance, the established general character of other buildings in the immediate vicinity.

Section 14-7. Site plan validity.

Site plan approval shall expire one year after the date of approval unless substantial construction has commenced and is being carried on without unreasonable delay to completion. The zoning administrator, in the case of an administrative review, or the planning commission, in all other cases, may grant one extension of up to 12 additional months; provided, the applicant requests an extension, in writing, prior to the date of expiration of the plan. The extension shall be approved if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed to completion within the extension period. If the above provisions are not fulfilled or the extension has expired prior to commencing substantial construction, the site plan approval shall become null and void.

Section 14-8. Amendments to an Approved Site Plan.

- (a) The holder of an approved site plan shall notify the zoning administrator of any proposed change to the site plan prior to initiating any such changes on the site.

(b) Minor changes may be approved by the zoning administrator upon determining that the proposed revisions meet the standards of this article, remain consistent with the intent of the design, comply with the requirements of this ordinance, and will not alter any conditions imposed as part of the original approval. Minor changes shall include the following:

- (1) Any change to a plan that was initially approved administratively;
- (2) Change in the building size, up to 10 percent in total floor area;
- (3) Movement of buildings or other structures by no more than 10 feet;
- (4) Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size;
- (5) Changes in approved building materials to a comparable or higher quality;
- (6) Relocation of an outdoor waste receptacle;
- (7) Modification of the parking area layout; provided, the number of parking spaces is not reduced below that required by this ordinance and the number and location of access points are not altered;
- (8) Changes to an approved sign;
- (9) The addition of accessory buildings in compliance with this ordinance;
- (10) Changes in floor plans that do not alter the character of the use;
- (11) Other changes determined by the zoning administrator to be similar in nature to those listed above and which will not alter the intent of the design or be contrary to any conditions imposed upon the initial approval; and
- (12) Changes required or requested by the city, or other county, state, or federal regulatory agency, in order to conform to other laws or regulations.

(c) A proposed change not determined by the zoning administrator to be minor shall be submitted to the planning commission as a site plan amendment and shall be reviewed in the same manner as the original application. If the zoning administrator determines that a proposed minor change may have a major impact on the neighborhood or area involved, the zoning administrator may refer the plan to the planning commission and the plan shall be reviewed in the same manner as the original application.

ARTICLE XV. NONCONFORMING USES, STRUCTURES, AND LOTS

Section 15-1. Purpose.

- (a) The purpose of this article is to establish regulations governing lots, buildings, structures, and their uses, which were lawful prior to the enactment of this ordinance, or relevant amendments, but which are prohibited or are more strictly regulated under the provisions of this ordinance.
- (b) Such lawfully established nonconformities may continue provided they otherwise remain in conformance with this ordinance, though their long-term continuation is not encouraged.
- (c) Any lot, building, structure, or use which has been established in violation of the provisions of a previous zoning ordinance in effect at the time the lot, building, structure, or use was established; and any lot, building, structure, or use which was lawfully established under a previous zoning ordinance and subsequently violates the terms of the permit under which it was established, shall be in violation of this article.

Section 15-2. Nonconforming Uses.

- (a) A nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this ordinance.
- (b) No part of any nonconforming use shall be moved unless such movement eliminates the nonconformity.
- (c) If a nonconforming use is abandoned for any reason for a period of more than 12 months, any subsequent use shall conform to the requirements of this ordinance. A nonconforming use shall be determined to be abandoned if one or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
 - (1) Utilities, such as water, gas and electricity to the property, have been disconnected;
 - (2) The property, buildings, and grounds, have fallen into disrepair;
 - (3) Signs or other indications of the existence of the nonconforming use have been removed;
 - (4) Equipment or fixtures necessary for the operation of the nonconforming use have been removed;
 - (5) Other actions which, in the opinion of the zoning administrator, constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.
- (d) A nonconforming use may be changed to another nonconforming use provided all of the following determinations are made by the planning commission:
 - (1) The proposed use shall be as compatible or more compatible with the surrounding neighborhood than the previous nonconforming use based on the nature of the use, density, potential noise and activity, hours of operation, vehicle traffic, number of employees and/or visitors, and equipment used.
 - (2) The proposed nonconforming use will not be enlarged or increased, nor extended to occupy a greater area of land or building than the previous nonconforming use.
 - (3) Appropriate conditions and safeguards are provided to ensure compliance with the intent and purpose of this ordinance.
- (e) If lawfully nonconforming use status applies to a building or structure and land in combination, the removal of the building or structure or its destruction in excess of 50 percent of its replacement value shall eliminate the lawful nonconforming status of the land; provided, in the case of destruction of the building or structure in excess of 50 percent of its replacement value, reconstruction of the building or structure and continuation of the nonconforming use may be permitted if authorized as a special land use in accordance with Section 15-3(e).

Section 15-3. Nonconforming Buildings and Structures.

- (a) The expansion of a nonconforming structure shall be permitted provided that the addition complies with this ordinance and does not increase the nonconformity.
- (b) If a nonconforming building or structure is altered or modified to eliminate, remove, or lessen any or all of its nonconforming characteristics, then such nonconforming characteristics shall not be subsequently reestablished or increased.
- (c) A lawfully nonconforming building or structure may be strengthened or restored to a safe condition, in whole or in part, if the building has been declared to be unsafe by the city building official or by other official having jurisdiction; provided, however, that the cost of any such strengthening or restoration shall not exceed 50 percent of the replacement value of the building or structure prior to such strengthening or restoration.
- (d) In the event that any lawfully nonconforming building or structure is damaged by fire, wind, act of God, or other casualty to such extent that the cost of reconstruction or restoration is equal to or less than 50 percent of the replacement value of such building or structure prior to the occurrence of the casualty, then such reconstruction or restoration shall be permitted.
- (e) In the event that any nonconforming building or structure is damaged by fire, wind, act of God or other casualty, and the cost of rebuilding or restoration exceeds 50 percent of the replacement value of the building or structure before rebuilding or restoration, then such rebuilding or restoration shall be permitted only when approved as a special land use by the planning commission in accordance with article 12 of this ordinance; provided however, that in addition to the general standards for considering special land uses, the planning commission shall consider:
 - (1) Whether such rebuilding or restoration can reasonably be accomplished in conformance with the requirements of the zoning district; and
 - (2) Whether the extent of the nonconformities is such that it is unreasonable and contrary to the intent of this ordinance to allow the reestablishment of the structure as it previously existed.
- (f) A nonconforming building or structure shall not be moved in whole or in part except when the moving results in full compliance with the provisions of this ordinance.

Section 15-4. Nonconforming Lots.

- (a) A nonconforming lot may be used for the purposes for which it is zoned; provided, that:
 - (1) If less than the minimum area and/or width requirements of this ordinance, the lot shall not be divided or reduced in dimensions or area to further reduce its compliance with the minimum requirements of this ordinance; and
 - (2) In the case of a nonconforming lot width, the minimum side yard requirement may be reduced by the same percentage that the existing lot width bears to the required lot width; provided, no side yard shall be less than five feet.
- (b) Combination of nonconforming lots.
 - (1) For any two or more nonconforming lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this ordinance, or amendment, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance if they:
 - a. are in common ownership;
 - b. are adjacent to each other or have continuous frontage; and
 - c. individually do not meet the lot width or lot area requirements of this ordinance.
 - (2) Lots meeting the provisions of subsection (b)(1), shall be combined into a lot or lots complying as nearly as possible to the lot width and lot size requirements of this ordinance. No

portion of the parcel shall be used or divided in a manner that diminishes compliance with lot width and area requirements of this ordinance.

Section 15-5. Nonconformities Resulting from Right-of-Way Dedication.

Where a nonconforming front yard setback, parking lot setback, or streetscape depth results from additional street right-of-way width being acquired by a public street agency, the building or parking lot may be improved or expanded without the need to obtain a variance; provided, the following conditions are met:

- (1) The building or parking lot complied with the front yard setback prior to the acquisition of the additional street right-of-way;
- (2) The building or parking lot expansion will not further reduce the depth of the front yard setback; and
- (3) All other requirements of this ordinance are met and necessary approvals obtained.

ARTICLE XVI. ZONING BOARD OF APPEALS

Section 16-1. Creation and Membership.

- (a) There is hereby established a zoning board of appeals (sometimes the “board”), which shall perform its duties and exercise its powers as provided in the Zoning Act.
- (b) The board shall consist of five members appointed by the city council. One member may be a member of the planning commission and one member may be a member of the city council. The remaining members shall be chosen from the electorate of the city. Members shall be appointed for three-year terms; provided, the planning commission and council appointees shall only serve while holding their respective offices. Members may be appointed for successive terms. Vacancies for unexpired terms shall be filled for the remainder of the term.
- (c) Alternates.
 - (1) The city council may appoint up to two alternate members for the same term as regular members of the board.
 - (2) An alternate member may be called to serve in the absence of a regular member or for the purpose of reaching a decision in a case where the regular member has abstained for reasons of conflict of interest.
 - (3) The alternate member having been called shall serve on the board until a final decision is made on the application for which the member was called.
 - (4) When serving as a member, an alternate member shall have the same voting rights as a regular member of the board.
- (d) Members of the board may be removed by the city council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing, if requested by the member to be removed. A member shall be disqualified from a vote in which the member has a conflict of interest. Failure of a member to abstain from voting on a matter when the member has a conflict of interest constitutes malfeasance in office.

Section 16-2. Meetings and Procedures.

- (a) All meetings of the zoning board of appeals shall be held at the call of the chairperson or at any time as the board may determine.
- (b) Three members of the board shall constitute a quorum for the conduct of its business; provided, a majority vote of the full membership shall be required to pass on any appeal, variance, interpretation, or other decision for which this ordinance or the Zoning Act delegates responsibility to the board.
- (c) Applications shall be submitted to the zoning administrator and shall include the following, as applicable; incomplete applications will not be forwarded to the board for consideration:
 - (1) an application form, as provided by the city;
 - (2) a scaled drawing, if applicable, with sufficient detail to indicate the nature and necessity of the request;
 - (3) payment of a fee, as prescribed by the city council; and
 - (4) other materials or information considered by the zoning administrator to be necessary for a full and complete understanding by the board of appeals of the request and conditions supporting the request.
- (d) The board may require the attendance of witnesses, administer oaths, and compel testimony and the production of books, papers, files, and other evidence pertinent to the matters before it.

Section 16-3. Powers and Duties.

- (a) *Appeals.*

- (1) The zoning board of appeals shall hear and decide all appeals from any order, decision or determination made by the zoning administrator or other person or body authorized to administer the provisions of this ordinance.
 - (2) The board shall have no jurisdiction or authority over or with regard to the following:
 - a. Any application for approval of a special land use or planned unit development;
 - b. An appeal from any decision, in whole or in part, on a special land use or planned unit development.
 - (3) An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board, after notice of appeal has been filed, that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, the proceedings shall not be stayed other than by a restraining order, which may be granted by a court of record.
 - (4) The board shall select a reasonable time and place for hearing the appeal, give due notice thereof to the parties, and render a decision on the appeal without unreasonable delay. A person may appear and testify at the hearing, whether in person or by duly authorized agent or attorney.
 - (5) In deciding the appeal, the board shall be limited to determining whether or not the decision that was made was done so using the proper standards and guidelines in this ordinance. The decision of the board is limited to the information that was available to the administrative official or body who made the decision initially. Additional testimony shall not be taken.
 - (6) If a determination is made that the administrative official or body making the decision did so improperly, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and shall have all the powers of the administrative official or body from whom the appeal was taken.
- (b) *Dimensional Variances.* The board shall have the power to decide applications for dimensional variances filed as provided in this article. A dimensional variance may be allowed only in cases where the board finds, based upon competent, material, and substantial evidence on the whole record, that there is practical difficulty related to the property and that all of the following conditions are met.
- (1) There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions may include:
 - a. exceptional narrowness, shallowness, or shape of a specific property that existed on the effective date of the ordinance or relevant amendment;
 - b. exceptional topographic or environmental conditions or other extraordinary situation on the land, building, or structure; or
 - c. the use or development of the property immediately adjoining the property in question.
 - (2) The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity.
 - (3) The variance will not materially impair the intent and purpose of this ordinance or the provision from which the variance is requested.
 - (4) The immediate practical difficulty causing the need for the variance request was not created by the applicant.
 - (5) The possibility that compliance with this ordinance may prove to be more expensive or otherwise inconvenient shall not be part of the consideration of the board.
- (c) *Use variances.* The zoning board of appeals shall have no authority to consider variances related to the use of land.

(d) *Interpretations.*

(1) *Text.* The board may hear and decide upon requests for the interpretation of the provisions of this ordinance.

- a. Text interpretations shall be narrow and address only the situation to be interpreted, be based on a thorough reading of this ordinance, and not have the effect of amending this ordinance.
- b. Interpretations shall give weight to practical interpretations by the zoning administrator and other administrative officials if applied consistently over a long period of time.
- c. Records shall be kept of all interpretations.
- d. Where the intent of this ordinance is unclear and the facts cannot be read to support only one interpretation, the benefit of doubt shall go to the property owner.

(2) *Zoning map.* The board may hear and decide appeals from the decisions of the zoning administrator pertaining to interpretations of the zoning map to determine the precise location of boundary lines between zoning districts. In making its determination of the boundary lines, the board shall be governed by the rules of this article and the provisions of section 3-3.

(3) *Generally.* Nothing contained in this section shall be construed to give or grant to the board the power or authority to alter or change this ordinance or the zoning map.

Section 16-4. Public Hearings, Voting, and Decisions.

(a) *Hearings.* Upon receipt of an application seeking an appeal of an administrative decision, a variance, or an interpretation of the zoning ordinance, the zoning administrator shall schedule a public hearing. A notice stating the time, date, and place of the hearing shall be published in a newspaper of general circulation within the city and shall be sent to the applicant not less than 15 days before the public hearing. In addition, if the request is for a variance or for an interpretation or appeal of an administrative decision involving a specific lot or parcel, written notice shall be sent by first class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the subject property and to the occupants of all structures within 300 feet of the boundary of the subject property. The notice shall state the nature of the request and the time, date, and place of the public hearing. If a tenant's name is not known, the term "occupant" may be used.

(b) *Voting requirements.* Except for administrative matters, such as approval of minutes, the concurring vote of at least three members of the board is necessary to decide any matter upon which the board is authorized by this article or other provisions of this ordinance to render a decision.

(c) *Decisions.*

(1) In making any decision provided for in this article, the board may attach such conditions regarding the location, character, and other features of the application as it may deem reasonable in furtherance of the intent and spirit of this ordinance and the protection of the public interest or as otherwise permitted by law.

(2) Any decision of the board shall not become final until minutes of the meeting at which final action was taken are officially approved and adopted by the board, unless the board shall find that immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.

(3) An application which has been denied wholly or in part by the board shall not be resubmitted for a period of one year from the date of the denial, unless permitted by the zoning administrator after a demonstration by the applicant of a substantial change of circumstances from the previous application.

Section 16-5. Time Limit on Variances.

- (1) Unless otherwise specifically provided by the board as a condition of approval, any variance granted by the zoning board of appeals shall automatically become null and void after a period of 12 months from the date granted, unless the owner or the owner's agent has demonstrated that substantial steps have been taken toward effecting the variance.
- (2) The holder of the variance may request up to one six-month extension of the variance from the zoning board of appeals, if applied for in writing prior to the expiration of the variance approval.
- (3) The board may only grant an extension when the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were beyond the control of the applicant.

Section 16-6. Appeals of Board Decisions.

The decision of the board shall be final; however, any person having an interest affected by any such decision shall have the right of appeal to the Ionia County Circuit Court on questions of law and fact.

ARTICLE XVII. AMENDMENTS

Section 17-1. Initiation of Amendments.

Amendments to this ordinance may be initiated by the city council; by any person, firm, or corporation filing an application with the city; or by the planning commission.

Section 17-2. Application Procedure.

(a) Amendments shall be processed as provided for in the Zoning Act, including notification to adjoining property owners and occupants, where applicable, and a public hearing. If an amendment is requested by a person, firm, or corporation, the request shall be filed on a form provided for that purpose and accompanied by an application fee, as set by the city council.

(b) Incomplete applications shall not be processed and will be returned to the applicant.

Section 17-3. Rezoning and Text Amendment Guidelines.

The following guidelines shall be used by the planning commission, and may be used by the city council in consideration of amendments to the zoning ordinance.

(a) *Text Amendment:*

(1) The proposed text amendment would clarify the intent of the ordinance.

(2) The proposed text amendment would correct an error or oversight in the ordinance.

(3) The proposed text amendment would address changes to the State legislation, recent case law, or opinions from the Attorney General of the State of Michigan.

(4) The proposed text amendment would promote compliance with changes in other County, State or Federal regulations.

(5) In the event the amendment will add a use to a district, that use shall be fully consistent with the purpose of the district and the character of the range of uses provided for within the district.

(6) The amendment will not create incompatible land uses within a zoning district, or between adjacent districts.

(7) The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements, and similar technical factors.

(8) As applicable, the proposed change shall be consistent with the city's ability to provide adequate public facilities and services.

(9) The proposed change shall be consistent with the protection of the public health, safety, and welfare of the community.

(b) *Map Amendment (Rezoning):*

(1) Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the City of Portland Master Plan; or, if conditions have changed significantly since the Master Plan was adopted, consistency with recent development trends in the area.

(2) Whether the proposed district and all uses allowed are compatible with the site's physical, geological, hydrological, and other environmental features.

(3) Whether all potential uses allowed in the proposed zoning district would also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values, and traffic impacts.

(4) Whether, if rezoned, the site is capable of accommodating the uses allowed, considering existing or planned infrastructure including streets, sanitary sewers, storm sewer, water, sidewalks, and street lighting.

- (5) Other factors deemed appropriate by the planning commission or city council.

Section 17-4. Amendment Considerations.

Upon receipt of a report and summary of public hearing comments from the planning commission, as provided for in the Zoning Act, the city council may modify and subsequently adopt the proposed amendment, adopt it as presented by the planning commission, or reject it. The city council may refer any proposed modifications back to the planning commission for additional comment.

Section 17-5. Conditional Rezoning.

It is recognized that there are certain instances where it could be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed as part of a rezoning request. It is the intent of this section to permit a process, consistent with the provisions of Section 405 of the Zoning Act, by which an owner seeking a rezoning may voluntarily offer conditions regarding the use and/or development of land as part of the rezoning request.

ARTICLE XVIII. ADMINISTRATION, ENFORCEMENT, AND PENALTIES.

Section 18-1. Zoning Administrator.

- (a) *Basic duties.* The zoning administrator or designee shall have the power to grant certificates of zoning compliance and occupancy permits and to make necessary inspections of premises to carry out the enforcement duties of this ordinance.
- (b) *Official zoning map.* The zoning administrator or designee shall be responsible for maintaining the official zoning map in accordance with the requirements of this ordinance.
- (c) *Violations.* The zoning administrator shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures; discontinuance of any illegal work being done; or shall take any other action authorized by this article to ensure compliance with or prevent violations of its provisions.

Section 18-2. Permits.

- (a) *Zoning compliance certificate.*
 - (1) Unless otherwise exempted by this ordinance, the construction, erection, alteration, expansion, moving, repair, or use of any land, building, or structure shall require receipt of a certificate of zoning compliance. No building permit shall be issued for the construction, erection, alteration, expansion, moving, or repair of any building or other structure until a certificate of zoning compliance has been issued. Issuance of the certificate shall indicate that the use and plans for which the permit is requested comply with this ordinance.
 - (2) It shall be unlawful to use or occupy or permit the use or occupancy of any building, structure, or premises, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use as permitted under the terms of this ordinance, until a certificate of zoning compliance shall have been issued by the zoning administrator. The certificate shall state that the building, structure, lot, and use thereof, conforms to the requirements of this ordinance.
 - (3) The zoning administrator shall maintain a record of all certificates of zoning compliance.
 - (4) Certificates of zoning compliance authorize only the use, arrangement, and construction set forth in the application and any appended plans. Any other use, arrangement, or construction at odds with that authorized shall be a violation of this ordinance punishable as provided by law. Any change in approved plans shall be reviewed as provided for in this ordinance and shall, if approved, require the issuance of an amended certificate of zoning compliance.
- (b) *Building permit.* In accordance with this ordinance and other codes, ordinances, and regulations adopted by the city council, no building shall hereafter be erected, relocated, or altered in its exterior or interior dimension or use, and no excavation for any building shall be commenced until a building permit has been issued. With respect to this ordinance, eligibility for a building permit shall be established upon conformance with the provisions contained herein. This shall apply to all new construction and all major improvements to existing structures. A building permit is required for detached accessory buildings and structures, unless specifically exempted by this ordinance.
- (c) *Certificate of occupancy.*
 - (1) A building or structure which is hereafter erected or altered shall not be occupied or used unless and until a certificate of occupancy has been issued for the building or structure.
 - (2) Certificates of occupancy, as required by the building code enforced by the city, shall also constitute certification that the completed building or structure complies with the zoning ordinance and all prior approvals and/or conditions attached to such approvals.

- (3) A record of all certificates of occupancy issued shall be kept on file by the zoning administrator and copies shall be furnished upon request to any person owning or renting the property which is the subject of the certificate.

Section 18-3. Performance guarantee.

- (a) As a condition of approval of a site plan, special land use, variance, or other zoning action, the zoning administrator, planning commission, city council, or zoning board of appeals, as applicable, may require a bond or other financial guarantee of sufficient amount to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as "improvements," may include, but shall not be limited to, roadways, curbs, paving, landscaping, fences, walls, screens, lighting, drainage facilities, sidewalks, and utilities.
- (b) Performance guarantees shall be processed in the following manner:
- (1) The applicant shall submit an itemized cost estimate of the required improvements, prepared by a Michigan registered professional engineer and/or other licensed professionals, which shall then be reviewed and subject to the approval of the zoning administrator and the city engineer. The amount of the performance guarantee shall be 100 percent of the costs listed below, plus a reasonable amount for contingencies, but in no case less than 15 percent of total costs:
 - a. purchase and/or construction of improvements;
 - b. installation of improvements; and
 - c. architectural and/or engineering design or related professional costs.
 - (2) The required performance guarantee shall be in the form of an irrevocable bank letter of credit, surety bond, or other form of guarantee acceptable to the zoning administrator.
 - (3) Upon receipt of the required performance guarantee, the zoning administrator shall issue a certificate of zoning compliance or certificate of occupancy, as applicable, for the subject development or activity.
 - (4) The city, upon the written request of the applicant, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement.
 - (5) When all required improvements have been completed, the applicant shall send written notice to the zoning administrator of completion of the improvements. Thereupon, the zoning administrator shall inspect, or cause to be inspected, the improvements and either approve, partially approve, or reject the improvements. The zoning administrator shall notify the applicant in writing of the action within 30 days. Where partial approval is granted, the applicant shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
 - (6) A record of authorized performance guarantees shall be maintained by the zoning administrator.

Section 18-4. Violations.

- (a) Any building or structure moved, erected, razed, converted, or used, and any use of land or premises, that is carried on in violation of this ordinance is declared to be a nuisance per se. All

buildings, structures, and land uses considered to be in violation of this ordinance shall be reported to the zoning administrator.

(b) Any order issued by the zoning administrator to correct a violation shall include a time frame by which the property owner (owner of the property upon which the violation is located) shall correct the violation.

(1) If the violation cannot be corrected within this time, the zoning administrator may exercise discretion, with just cause, to extend the correction period for an appropriate length of time up to a period of six months.

(2) In all cases, a request for extending the time period for correcting a violation shall be made in writing by the applicant to the zoning administrator prior to the expiration of the time period originally approved by the zoning administrator. The request shall include specific detail on why the violation has not been corrected within the initial time period imposed, the requested additional time for correcting the violation, and actions to be pursued by the landowner to ensure correction of the violation within the allotted time.

(3) In the event the zoning administrator determines the violation poses an imminent threat to the health, safety, and welfare of the general public or to the occupants of the premises on which the violation is located, the zoning administrator may require that immediate measures be taken to correct the violation.

Section 18-5. Stop work order.

(a) *Notice to owner.* Upon notice from the zoning administrator or building official that any use is being conducted or that any work on any building or structure is proceeding contrary to the provisions of this ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, the owner's agent, or the person doing the work and shall state the conditions, if any, under which the work or use will be permitted to resume.

(b) *Unlawful continuance.* Any person who continues to work in or about the structure, land, or building or use it after having been served with a stop work order, except work that the person is directed to perform to remove a violation, shall be in violation of this ordinance.

Section 18-6. Penalties.

(a) Any person, firm, corporation, or organization who violates, disobeys, omits, or refuses to comply with any provisions of this ordinance or lawful order of the zoning administrator, planning commission, zoning board of appeals, or city council issued pursuant to this ordinance shall be responsible for a civil infraction punishable by the sanctions set forth in this section. Each day that a violation continues may be deemed a separate infraction.

(b) The zoning administrator, building official, and law enforcement officers are authorized to issue municipal civil infraction citations and municipal civil infraction violation notices for violation of the provisions of this ordinance.

(c) The sanction for any violation of this ordinance which is a municipal civil infraction shall be a civil fine as provided herein, plus any costs, damages, expenses, and other sanctions authorized under Public Act No. 236 of 1961 (MCL 600.8701 et seq.) and the city code.

(1) Increased civil fines will be imposed for repeated violations that occur within a six-month period. Civil fines for first offenses, repeat first offenses, and repeat second offenses will be established from time to time by resolution of the city council or the city code.

(2) The city shall also be entitled to equitable relief to abate the violations and to such other relief as may be available to the city pursuant to the Michigan Revised Judicature Act of 1961, Public Act No. 236 of 1961 (MCL 600.8301 et seq., 600.8701 et seq.).

ARTICLE XIX. ENACTMENT

Section 19-1. Repeal of ordinance.

Chapter 42, Part II of the code of ordinances, known as the “City of Portland Zoning Ordinance,” adopted May 1, 2023, and all amendments thereto, are hereby repealed as of the effective date of this ordinance specified in section 19-3. The repeal does not affect any act done or offense committed, or any liability, penalty, forfeiture, or punishment acquired thereunder. The repeal does not include the Official Zoning Map of the City of Portland, which is hereby adopted as a part of this ordinance. The repeal also does not include any existing approved PUD ordinances, except as may be specifically provided herein.

Section 19-2. Severability.

The various parts, sentences, paragraphs, sections, and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this ordinance is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this ordinance.

Section 19-3. Enactment and effective date.

A public hearing having been held as required by the Zoning Act, the provisions of this ordinance are hereby adopted, and shall take May 11, 2023.

4855-4369-0311 v3 [57672-9]