City of Rochester

400 Sixth Street
Rochester, MI 48307
P: (248) 733-3700
F: (248) 733-3170
www.rochestermi.org

PLANNING COMMISSON
REGULAR MEETING AGENDA

Chair Richard Kendziuk
Vice Chair David Hardin
Mayor Debbie Jones
Members: Daniel Bachmann, David Berletich, Jenna Campbell,
Council Member Christian Hauser, Laura Murphy & Matthew Stone

See Attached Document for Virtual Meeting Instructions

400 Sixth Street	**November 4, 2026**	**7:00 PM**

1. Call to Order and Roll Call
2. Pledge of Allegiance
3. Public Comment
4. Approval of the Minutes
   A. Consideration of the Minutes of the Regular Meeting of October 5, 2026
5. Public Hearings
   A. Notice of Public Hearing: Zoning Ordinance
6. Considerations:
7. Miscellaneous
   A. 2027 Planning Commission Meeting Schedule
8. Public Comment
9. Adjourn

NOTE: Anyone planning to attend the meeting who has need of special assistance under the Americans with Disabilities Act (ADA) is asked to contact the City Clerk's Office at 248-733-3700 forty-eight (48) hours prior to the meeting. Staff will be pleased to make the necessary arrangements to provide necessary reasonable accommodations, including auxiliary aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered at the meeting.

City of Rochester

400 Sixth Street
Rochester, MI 48307
P: (248) 733-3700
F: (248) 733-3170
www.rochestermi.org

Procedure for Hybrid Public Meeting

The City has returned to in-person public meetings as of September 7, 2023, with limited online capabilities. The public bodies (our boards and commissions) are meeting in-person; however, some staff, consultants, and guests will still be able to participate remotely. While in-person audience seating is now available, with limited COVID-19 procedures in place, staff asks that anyone who feels sick not attend in-person.

If you choose to participate virtual, please follow the links and information below:

- Live stream audio and video content on two (2) separate streaming platforms available at the City's YouTube and at the City's website at www.rochestermi.org/201/City-Webcasts. (Click the "Live" links to go there.)

- The City remains committed to accessibility; however, due to the limitations of technology, City staff encourages residents to send an email with your comments to rsvp@rochestermi.org prior to the meeting, but not later than Noon on the day of the meeting, so that your comments can be read into the record. This will decrease the demand on our virtual meeting infrastructure. (After Noon on the day of the meeting, email comments to: (bdannunzio@rochestermi.org)

- For those who prefer to use a telephone to participate, you will need to call (312) 626-6799 and enter meeting **ID: 862 3535 5850** When prompted, enter a participant number or just touch the # key. During the call, use *9 to raise hand and you will be "called on" by the last 3-digits of your phone number. (For example, my last digits are 8029. Callers will be asked to speak by referencing the last 4-digits of their phone number.) Note: Phone participants will have their numbers masked, for privacy.

- To provide additional opportunity to participate, members of the public are welcome to join the meeting by copying and pasting the following link in their browser: https://us02web.zoom.us/j/86235355850 (Downloading Zoom is required.)

- We appreciate your understanding as staff will do our best to assist everyone; but, **please be advised for virtual meetings there is a three (3) minute limit for public comments**.

ROCHESTER
Where you live.

1. CALL TO ORDER AND ROLL CALL

A meeting of the City of Rochester Planning Commission (PC) was called to order on October 5, 2026, 7:00 p.m. by Chairman Kendziuk.

PRESENT: Richard Kendziuk, Chairman
Debbie Jones, Mayor
Christian Hauser, Council Member
Dan Bachmann, Commissioner
David Berletich, Commissioner
Laura Murphy, Commissioner
Matt Stone, Commissioner

ABSENT: David Hardin, Vice Chairman
Jenna Campbell, Commissioner

quorum was present.

Also Present: Nik Banda, City Manager
Jeff Kragt, City Attorney (Zoom)
Lori Morgan, McKenna Planner
Brian D'Annunzio, City Clerk
Jeremy Peckens, Planning and Zoning Administrator (absent)
Rose McKinney, Building and Planning Clerk (Zoom)

2. PLEDGE OF ALLEGIANCE

Chairman Kendziuk led the reciting of the Pledge of Allegiance.

3. PUBLIC COMMENT NON-AGENDA ITEMS

There was no public online or in person.

4. APPROVAL OF MINUTES

A. Consideration of the Minutes of the Planning Commission Meeting of September 8, 2026.

MOTION by Hauser supported by Jones to approve the minutes of September 8,2026.

Ayes: Kendziuk, Hauser, Bachmann, Berletich, Jones, Murphy, Stone
Nays:
Absent: Campbell, Hardin

MOTION Carried.

DRAFT

5. PUBLIC HEARINGS

A. Notice of Public Hearing: 530 Pine St: Site Plan Review.

Lori Morgan from McKenna provided a recap of the previous review of the proposed video-based paid parking system at 530 Pine Street. She explained that concerns remained regarding the concrete islands and bollards installed at the site and their impact on emergency vehicle access. Ms. Morgan stated that the City Planner was deferred to the Fire Department regarding compliance with fire-code and emergency-access requirements. The primary outstanding issue was maintaining adequate emergency access to the property from Main Street.

Dr. Attallah was present he stated that the requested structural analysis and supporting documentation had been submitted to the city. He requested clarification regarding any remaining requirements necessary to lift the stop-work order and asked the Planning Commission to approve the site plan so the project could proceed.

Fire Chief Demoff stated that the Fire Department continued to have concerns regarding emergency vehicle access to the property. He emphasized that the Department's requested changes were supported by specific provisions of the Fire Code and were necessary to ensure adequate access for fire apparatus.

Fire Marshal Shepp explained that the existing access points did not comply with the 2018 Fire Code and that the Department needed to avoid making an already difficult access situation more hazardous. He discussed the need for multiple points of fire department access, the size and turning-radius requirements of the City's fire apparatus, and existing obstacles affecting access to the property.

The Fire Department indicated that the Main Street access was particularly important because alternative access routes presented difficulties for large fire apparatus. The Department expressed concern that the concrete island and bollards would further restrict its ability to maneuver emergency vehicles onto and through the property during an emergency.

Aseel Petros, AEW stated that AEW's structural engineer reviewed the submitted structural report and found the information to be generic and unclear. She explained that although the report referenced a 100-pound-per-square-foot design live load, it did not clearly identify what portion of the building that load applied to.

Aseel further stated that AEW requested a more specific analysis using the City of Rochester's heaviest fire apparatus, including the axle loads of the vehicle. Those loads would need to be compared with the building's slab and framing system to determine whether the structure could safely withstand the weight of the fire apparatus.

She indicated that the submitted report did not contain this analysis and that additional information would be necessary before AEW could make a definitive recommendation regarding the structural capacity of the parking deck.

The Public Hearing was opened at 7:22 p.m.

There was no public online or in person.

Public Hearing was closed at 7:23 p.m.

Motion by Hauser, supported by Berletich to approve site plan, contingent on the following four conditions. Once those four conditions are met then work can commence.

No work can commence until the following four items are completed.

- Remove the concrete entrance island located at the N. Main Street entrance to Rochester River Square, 530 Pine Street, in its entirety.
- Remove all bollards associated with the concrete island configuration at the Main Street entrance throat.
- Restore the entrance lane width to a minimum unobstructed width of 20 feet in compliance with IFC Section 503.2.1.
- Provide written confirmation of compliance to the Fire Chief upon completion of the removal.

Ayes: Kendziuk, Hauser, Bachmann, Berletich, Jones, Murphy, Stone
Nays:
Absent: Campbell, Hardin

MOTION Carried.

6. CONSIDERATIONS

A. Consideration of 136 Walnut: Site Plan Review & Payment in Lieu of Parking. Request to Set Public Hearing.

The applicant has requested removal from tonight's agenda

Motion by Jones, supported by Stone to remove 136 Walnut from tonight's agenda

Ayes: Kendziuk, Hauser, Bachmann, Berletich, Jones, Murphy, Stone
Nays:
Absent: Campbell, Hardin

MOTION Carried.

B. Consideration to set a public hearing for the proposed zoning ordinance and zoning map changes.

`

DRAFT

John Jackson and Lori Morgan from McKenna were present. It was explained that a joint working group consisting of Planning Commission and City Council members had reviewed the draft Zoning Ordinance and zoning map and recommended revisions to both the ordinance text and map.

Lori further explained that the proposed revisions reflected comments received during the joint Planning Commission and City Council discussions. Due to the extent of the changes, particularly the substantive amendments to the zoning map, staff determined that the revised ordinance and map should be returned to the Planning Commission for consideration and a public hearing.

The Commission discussed its role in the proposed Master Plan update. The Commission would provide local knowledge, guidance and support throughout the process and assist with community engagement.

Lori explained that because the proposed Master Plan would be a targeted update rather than a complete rewrite, public engagement would focus on specific topics through in-person workshops. A public survey was also suggested related to a housing study to obtain more detailed public input.

Following discussion of the proposed revisions, it was recommended the Planning Commission:

- Review the proposed housekeeping amendments to the zoning ordinance.
- Conduct the required public hearing.
- Consider any public comments received.
- Recommend the zoning ordinance to City Council for adoption, as presented or with any modifications deemed appropriate.

Motion by Hauser, supported by Jones, to set a public hearing at the next available meeting.

Ayes: Kendziuk, Hauser, Bachmann, Berletich, Jones, Murphy, Stone
Nays:
Absent: Campbell, Hardin

MOTION Carried.

7.MISCELLANEOUS

A. Zoning Ordinance Section 2118 amendment update.

Chairman Kendziuk discussed the ongoing work of the Section 2118 Subcommittee. It was reported that the subcommittee had met with nearly all City Council members and was continuing to refine the proposed standards. Additional graphics were being developed to better illustrate the intent of the regulations, with remaining issues including building height and the painting of brick and masonry.

DRAFT

The subcommittee anticipated continuing its work and presenting a revised draft for consideration at the November meeting. Commissioners expressed appreciation for the work completed to date and noted that the graphics illustrating existing buildings compared with potential improvements were helpful in demonstrating the desired consistency and appearance along Main Street.

The Commission also discussed whether the Section 2118 amendments should be incorporated with the pending Zoning Ordinance. The consensus was to proceed with the Zoning Ordinance separately and address Section 2118 afterward as an immediate amendment, as the Section 2118 revisions were not yet ready for consideration.

B. Discussion of 2027 Planning Goals, including proposed Master Plan elements and work plan.

Lori reviewed the proposed 2027 Planning Commission goals and the anticipated scope of the Master Plan update. The proposed goals included continued updates to the Zoning Ordinance, review of administrative site plan procedures, consideration of architectural standards for districts outside the Central Business District, a five-year Master Plan review, a citywide housing study, and a South Street Subarea Plan.

The proposed Master Plan update would be a targeted update rather than a complete rewrite. The Planning Commission would serve as a steering committee and periodically review the work, provide comments and local knowledge, and assist with community engagement. The proposed scope included an implementation status report evaluating the existing Master Plan, a housing study examining current and projected housing needs, and a South Street Subarea Plan addressing development opportunities, the floodplain, site planning and implementation.

The Commission discussed the importance of maintaining involvement and oversight of the housing and South Street studies while allowing the planning consultants to complete much of the technical work. It was also suggested that City Council be involved during the process so that the Planning Commission and Council remain coordinated as the plan develops.

The Commission supported developing a phased work plan identifying the individual components of the Master Plan update, the anticipated schedule and the cost associated with each phase. Staff indicated that a more formal proposal and fiscal analysis could be prepared for review at a future meeting. Because the work was not currently included in the budget, City Council would ultimately need to consider the necessary funding.

There was not an update on the Albertson property.

8.PUBLIC COMMENT
There was no public online or in person that wished to speak.

9.ADJOURNMENT
Hearing there is no further business, the meeting was Adjourned at 9:50 P.M.

Respectfully Submitted,
Rose McKinney, Building and Planning Clerk

DRAFT

City of Rochester

400 Sixth Street
Rochester, MI 48307
P: (248) 651-9061
F: (248) 651-2624
www.rochestermi.org

PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

400 Sixth Street	**November 2, 2026**	**7:00 pm**

NOTICE IS HEREBY GIVEN THAT THE ROCHESTER PLANNING COMMISSION will hold a Public Hearing in accordance with the Michigan Zoning Enabling Act Public Act 110 of 2006, as amended, for the purpose Considering the implementation of new Zoning Ordinance text and map. The Public Hearing shall take place on November 2, 2026, at 7:00 p.m**. at the Rochester Municipal Offices, 400 Sixth Street, Rochester, MI 48307.**

For those who prefer to use a telephone to participate, you will need to call (646) 558-8656 and enter **meeting ID: 879 3839 8981.** When prompted, enter a participant number or just touch the # key. During the call, use *9 to raise hand and you will be "called on" by the last 3-digits of your phone number. (For example, my last digits are 829. Callers will be asked to speak by referencing the last 3- digits of their phone number.) Note: Telephone participants will have their phone numbers masked, to protect their privacy.

The city is proposing the new Official Zoning Map to align with the City's Master Plan. The proposed Official Zoning Map will maintain the city's residential districts and include new districts which permit a greater mix of uses, allow for appropriate density of uses, and add development standards to ensure high-quality, pedestrian-oriented design.

The proposed Official Zoning Map may be viewed at City Hall located at 400 Sixth Street, Rochester, MI, Mon.-Fri. 8:30 am to 5:00 pm, at least 15 days prior to the public hearing date.

All interested citizens are requested to attend the Hearing. Public comments will be received up to and during the Public Hearing, orally or in writing. If you are unable to be present at the Public Hearing, please submit your written comments to the Office of the City Manager, Rochester Municipal Offices, 400 Sixth Street, Rochester, MI 48307, PRIOR to the scheduled Public Hearing.

For further information, please contact **Jeremy Peckens**, Planning and Zoning Administrator, at **248-733-3700**.

Publish on or before; October 18, 2026

NOTE: Anyone planning to attend the meeting who has need of special assistance under the Americans with Disabilities Act (ADA) is asked to contact the City Clerk's Office at 248-651-9061 forty-eight (48) hours prior to the meeting. Staff will be pleased to make the necessary arrangements to provide necessary reasonable accommodations, including auxiliary aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered at the meeting

MCKENNA

Memorandum

TO: Planning Commission

FROM: John Jackson, AICP
Lori Morgan, AICP

SUBJECT: **Zoning Ordinance Update – Public Hearing**

DATE: September 28, 2026

Attached are the following documents for your review:

1. The full zoning ordinance with strikeout (deleted text) and underline (added text) formatting.
2. A clean version of the full zoning ordinance incorporating all proposed changes.
3. The updated Zoning Map, as recommended for approval by the Planning Commission.

These documents, reflect revisions discussed during recent joint working sessions of the City Council and Planning Commission.

The Planning Commission previously reviewed and recommended approval of the comprehensive zoning ordinance update in 2025. Following subsequent discussions with City Council, several modifications were recommended and have been incorporated into this draft. These revisions include:

1. Clarification of access requirements within the Transition (T) District;
2. Removal of the provision allowing additional building height in the Central Business District (CBD) through conditional use approval;
3. Clarification of the intent and naming of the Research Park/Research Technology District; and
4. Incorporation of the recently approved amendment allowing limited retail uses within the LI (Light Industrial) District.

The purpose of this review is to ensure that the ordinance accurately reflects the direction provided during the joint meetings and all subsequent amendments. Once the Planning Commission has completed its review of this updated draft, a public hearing may be scheduled to consider formal adoption of the ordinance.

RECOMMENDATION

We recommend that the Planning Commission:

- Review the proposed housekeeping amendments to the zoning ordinance;
- Conduct the required public hearing;

HEADQUARTERS
235 East Main Street
Suite 105
Northville, Michigan 48167

O 248.596.0920
F 248.596.0930
MCKA.COM

- Consider any public comments received; and
- Recommend the zoning ordinance to City Council for adoption, as presented or with any modifications deemed appropriate.

We will be in attendance at the Planning Commission meeting to answer any questions.

Zoning Ordinance

CITY OF ROCHESTER, MICHIGAN

ADOPTED ·

Prepared by:

235 East Main Street, Suite 105
Northville, MI 48167
mcka.com

SUMMARY TABLE OF AMENDMENTS

Ordinance Number	Effective Date	Amended Sections	Description

Table of Contents

Title *Page*

Summary of Amendments

Article 1. Establishment of Districts; Official Zoning Map

Sec. 100. Official Zoning Map

Sec. 101. Replacement of Official Zoning Map

Article 2. Rules for Interpretation of District Boundaries

Sec. 200. Intent and Interpretation Rules

Article 3. Application of District Regulations

Sec. 300. Applicability of Regulations

Article 4. Nonconformities

Sec. 400. Intent

Sec. 401. Nonconforming Lots of Record

Sec. 402. Nonconforming Uses of Land

Sec. 403. Nonconforming Structures

Sec. 404. Nonconforming Uses of Structures and Premises

Sec. 405. Repairs and Maintenance

Sec. 406. Reserved

Sec. 407. Certificates of Occupancy

PART 2. ZONING DISTRICTS

Article 5. Zoning Districts

Sec. 700. District Classification System

Residential Districts

Article 6. R-1 through R-5 One-Family Residential Districts

Sec. 600. Intent

Sec. 601. Permitted Principal Uses

Sec. 602. Permitted Accessory Uses

Sec. 603. Conditional Uses

Article 7. RT Two-Family Residential District

Sec. 700. Intent

Sec. 701. Permitted Principal Uses

Sec. 702. Permitted Accessory Uses

Sec. 703. Conditional Uses

Article 8. RM-1 Multiple-Family / Mixed Residential District

- Sec. 800. Intent

- Permitted Principal Uses
- Permitted Accessory Uses
- Conditional Uses
- Development Standards

Article 9. RM-2 Multiple-Family Residential District

- Intent
- Permitted Principal Uses
- Permitted Accessory Uses
- Conditional Uses
- Development Standards

Article 10. MHP Mobile Home Park Residential District (Reserved)

Article 11. CBD Central Business District

- Intent
- Permitted Principal Uses
- Permitted Accessory Uses
- Conditional Uses

Article 11A. DE-1 Downtown Edge-1 District

- Intent
- Permitted Principal Uses
- Permitted Accessory Uses
- Conditional Uses
- Development Standards

Article 11B. DE-2 Downtown Edge-2 District

- Intent
- Permitted Principal Uses
- Permitted Accessory Uses
- Conditional Uses
- Development Standards

Article 11C. T Transition District

- Intent
- Permitted Principal Uses
- Permitted Accessory Uses
- Conditional Uses
- Development Standards

Article 11D. MU Mixed-Use District

- Intent
- Permitted Principal Uses
- Permitted Accessory Uses
- Conditional Uses
- Development Standards

Article 11E. MU-1 Mixed-Use-1 District

- Intent
- Permitted Principal Uses
- Permitted Accessory Uses
- Conditional Uses
- Development Standards

Article 12. P-1 Vehicular Parking District

Article 13. B-1 General Business District

Article 14. O-1 Limited Office District

Article 15. O-2 Restricted Office District

Article 16. Research and Technology Districts

RP Research Park District

Article 17. Industrial Districts

LI Light Industrial District

I-1 Industrial 1 District

Article 18. I-2 Industrial 2 District

Article 19. Special Purpose Districts

River Valley (RV) District

Parks and Open Space (POS) District

PART 3. DEVELOPMENT STANDARDS

Article 20. Dimensional Standards

- Schedule of District Regulations
- Setbacks
- Lot Area and Width
- Building Height
- Placement Standards

Article 21. Supplementary District Regulations

- Visibility and Corner Clearance
- Accessory Buildings

- Swimming Pools
- Building Height Exceptions
- Communication Towers and Antennas
- Public Utilities and Facilities
- Dwelling Standards
- Upper Story Apartments
- Day Care Facilities
- Bed and Breakfast Homes
- Special Projects
- Residential Infill Standards
- Architectural Standards
- Outdoor Dining
- Valet Parking
- Fence Standards
- Bistro Standards
- Smoking Areas
- Medical Marihuana Prohibition
- Oil and Gas Wells
- Smoking Product Regulations
- Temporary Sales Trailers

Article 22. Sign Regulations

- Purpose and Definitions
- General Standards
- Prohibited Signs
- Residential District Signs
- Office District Signs
- Commercial District Signs
- Sign Permits and Administration

Article 23. Performance Standards

- Sound
- Vibration
- Odors
- Gases
- Glare and Heat

- Outdoor Lighting
- Smoke and Dust
- Open Storage

Article 24. Off-Street Parking and Loading

- Parking Requirements
- Parking Design Standards
- Loading Requirements

Article 25. Planned Residential Development (PRD)

- Purpose
- Eligibility
- Development Standards
- Approval Procedures

PART 4. REVIEW AND APPROVAL PROCEDURES

Article 26. Conditional Uses

- Procedures
- Approval Standards
- Conditions of Approval
- Regulated Uses

Article 27. Site Plan Review

- Applicability
- Submission Requirements
- Review Procedures
- Approval Standards

Article 28. Landscaping, Screening and Woodlands Protection

- Landscape Requirements
- Pedestrian Amenities
- Screen Walls
- Stabilization Zones

PART 5. ADMINISTRATION AND ENFORCEMENT

Article 29. Administration and Enforcement

- Zoning Compliance Permits
- Certificates of Occupancy
- Performance Guarantees

Article 30. Zoning Board of Appeals

- Organization
- Powers and Duties
- Appeals
- Variances

Article 31. Schedule of Fees

Article 32. Vacated Rights-of-Way

Article 33. Annexed Areas

Article 34. Amendments

- Rezoning Procedures
- Conditional Rezoning
- Amendment Standards

Article 35. Minimum Requirements

Article 36. Complaints and Violations

Article 37. Penalties

Article 38. Severability

PART 6. DEFINITIONS AND FINAL PROVISIONS

Article 39. Definitions

- Definitions A-C
- Definitions D-E
- Definitions F-H
- Definitions I-L
- Definitions M-R
- Definitions S-T
- Definitions U-Z

Article 40. Short Title

Article 41. Repealer and Effective Date

ARTICLE 1. ESTABLISHMENT OF DISTRICTS; PROVISION FOR OFFICIAL ZONING MAP

Sec. 100. Official zoning map.

(a) The municipality is hereby divided into zones or districts as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

(b) The official zoning map shall be identified by the signature of the mayor attested by the city clerk, and bearing the seal of the municipality, under the following words: "This is to certify that this is the official zoning map referred to in section 100 of Zoning Ordinance No. 1977-4, as amended, of the City of Rochester, Michigan," together with the date of the adoption of this ordinance.

(c) If, in accordance with the provisions of this ordinance, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the effective dates and ordinance numbers of district boundary changes, and the dates on which the official zoning map was changed.

(d) No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person shall be considered a violation of this ordinance and punishable as provided under article 37.

(e) Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the office of the city clerk shall be the final authority as the current zoning status of land and water areas, buildings and other structure in the municipality.

(Ord. No. 2003-03, 3-24-2003; Ord. No. 2003-04, 3-24-2003; Ord. No. 2003-07, 5-27-2003; Ord. No. 2006-07, 8-14-2006)

Sec. 101. Replacement of official zoning map.

(a) In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the city council, hereinafter also referred to a "legislative body," may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor attested by the city clerk, hereinafter referred to as "clerk," and bearing the seal of the municipality under the following words: "This is to certify that this official zoning map superseded and replaces the official zoning map adopted (date of adoption of map being replaced) as part of Zoning Ordinance No. [1977-4] of the City of Rochester, Michigan." Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

ARTICLE 2. RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

[Sec. 200. Intent.]

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(3) Boundaries indicated as approximately following municipal boundaries shall be construed as following such municipal boundaries;

(4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

(5) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;

(6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map;

(7) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (1) through (6) of this section, the board of appeals shall interpret the district boundaries;

(8) Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the planning commission may permit, as a ~~special exception~~conditional use, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

ARTICLE 3. APPLICATION OF DISTRICT REGULATIONS

[Sec. 300. Intent.]

The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformity to each class or kind of structure or land, and particularly, except as hereinafter provided:

(1) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

(2) No building or other structure shall hereafter be erected or altered:

a. To exceed the height or bulk;

b. To accommodate or house a greater number of families;

c. To occupy a greater percentage of lot area;

d. To have narrower or small rear yards, front yards, other open spaces, or lot area, than herein required; or in any other manner contrary to the provisions of this ordinance.

(3) No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

(4) No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

(5) Essential services shall be permitted as authorized and regulated by law and other ordinances of the municipality, it being the intention hereof to exempt such essential services for the application of this ordinance. See the definition of *Essential services* [in section 3902].

ARTICLE 4. NONCONFORMING LOTS, NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES, NONCONFORMING USES OF STRUCTURES AND PREMISES, AND NONCONFORMING CHARACTERISTICS OF USE

Sec. 400. Intent.

(a) Within the districts established by this ordinance or amendments that may later be adopted there exist:

(1) Lots;

(2) Structures;

(3) Uses of land and structures; and

(4) Character of use;

which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their continuation. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. However, it is not the intent of this ordinance to permit or encourage the continuation of nonconforming signs within the City of Rochester. Nonconforming signs are regulated by chapter 42 of the Code of the City of Rochester.

(b) Nonconforming uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. A nonconforming use of land or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district involved.

(c) To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition, or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Sec. 401. Nonconforming lots of record.

(a) In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the board of appeals.

(b) If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel be made which creates a lot width or area below the requirements stated in this ordinance.

(c) Notwithstanding the language of subparagraph (a) and (b) herein, lot splits are allowed so long as the resulting lots conform to all lot dimensions of the original plat. Use and development of such split vacant lot shall conform to the requirements of this section and the zoning district where the lot is located. Existing structures on a lot that is rendered non-conforming as a result of such split shall be deemed to be legal non-conforming structures; however no further expansion or alteration of such structure shall be allowed that would increase the degree of non-conformity of the structure(s) or lot in any aspect. No such split shall be allowed which would result in encroachments from existing structure(s) on one of the lots, into the newly created vacant lot.

(Ord. No. 2016-06, pt. 1, 6-27-2016)

Sec. 402. Nonconforming uses of land (or land with minor structures only).

Where at the time of passage of this ordinance lawful uses of land exist which would not be permitted by the regulations imposed by this ordinance, and where such use involves no individual structure with a replacement cost exceeding $1,000.00, the use may be continued so long as it remains otherwise lawful, provided:

(1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.

(2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance.

(3) If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

(4) No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming use of land.

Sec. 403. Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued (except nonconforming signs, which are regulated by [chapter] 42 of the Code of the City of Rochester) so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(2) Should such nonconforming structure or nonconforming portion of the structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.

(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Sec. 404. Nonconforming uses of structures and premises in combination.

If lawful use involving individual structures with a replacement cost of $1,000.00 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

(2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, by no such use shall be extended to occupy any land outside such building;

(3) If no structural alterations are made, any nonconforming use of a structure or structure and premises may, as a ~~special exception~~conditional use, be changed to another nonconforming use, provided that the city planning commission, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the city planning commission may require appropriate conditions and safeguards in accordance with the provisions of this ordinance. Further, if such change is permitted, the new nonconforming use remains a nonconforming use, and the substituted nonconforming use may not thereafter be resumed;

(4) Any structure or structure and land in combination, in which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;

(5) When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for six consecutive months or for 12 months during any three-year period (except when government action impedes access to the premises), the structure or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located;

(6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50 percent of the replacement cost at the time of destruction;

(7) Any existing structure devoted to a use not permitted by this ordinance in the district in which it is located may be enlarged, extended, constructed, reconstructed, moved, or structurally altered, if a portion of the use of the structure is to be changed to a use permitted in the district in which it is located; provided, however, the planning commission shall first permit it as a ~~special exception~~conditional use under the terms of this ordinance by making findings that the nonconforming use of the structure has been substantially decreased.

(Ord. No. 2021-03, 4-26-2021)

Sec. 405. Repairs and maintenance.

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

(b) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

(c) Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Sec. 406. Reserved.

Editor's note(s)—Ord. No. 2021-03, adopted April 26, 2021, deleted § 406, which pertained to uses deemed ~~special exception~~conditional uses not being considered nonconforming and derived from original zoning ordinance material.

Sec. 407. Certificate of occupancy for nonconforming structures and for nonconforming uses.

(a) In order to establish a record of lawfully existing nonconforming structures and/or nonconforming uses of structures or land, upon application by the owner, within one year of the passage of this ordinance, the administrative official shall issue a certificate of occupancy for such lawfully existing nonconformance.

(b) If such certificate of occupancy is not so obtained, the burden of proof of the lawful existence of a nonconforming structure or use shall rest upon the owner.

ARTICLE 5. DISTRICTS

[Sec. 500. Purpose.]

(a) See article 3.

(b) For the purposes of this ordinance, the City of Rochester is hereby divided into the following districts:

Designation	*District*
R-1	One-Family Residential District
R-2	One-Family Residential District
R-3	One-Family Residential District
R-4	One-Family Residential District
R-5	One-Family Residential District
RT	Two-Family Residential District
RM-1	Multiple-Family – Mixed Residential District
RM-2	Multiple-Family Residential District
~~MHP~~	~~Mobile Home Park Residential District~~
CBD	Central Business District
DE-1	Downtown Edge – 1 District
DE-2	Downtown Edge – 2 District
T	Transition District

MU	Mixed-Use District
MU-1	Mixed-Use – 1 District
P-1	Vehicular Parking District
B-I	General Business District
O-1	Office Limited District
O-2	Restricted Office District
RP	Research Park District
~~I-1~~LI	Light Industrial ~~-1~~ District
~~I-2~~	~~Industrial 2 District~~
RV	River Valley District

(c) District regulations shall be set forth in this section, article 21, and all other applicable provisions of this ordinance.

(d) ~~Special exception~~Conditional uses shall be subject to the provisions of article 26.

ARTICLE 6. R-1, R-2, R-3, R-4, AND R-5 ONE-FAMILY RESIDENTIAL DISTRICTS

Sec. 600. Intent.

(a) The regulations are intended to encourage a suitable environment for families typically with children. To this end, uses are basically limited to single-family dwellings, together with certain other uses, such as schools, parks, and playgrounds, which provide a neighborhood environment. In keeping with the intent, development is regulated to a moderate density. Commercial and other uses, tending to be incompatible with the intent, are prohibited.

(b) The R-1 District is only intended for areas already platted and substantially developed into lots of less than R-2 standards.

Sec. 601. Permitted principal uses.

[The following principal uses shall be allowed in the R-1, R-2, R-3, R-4 and R-5 One-Family Residential Districts:]

(1) One-family dwellings.

Sec. 602. Permitted accessory uses.

[The following accessory uses shall be allowed in the R-1, R-2, R-3, R-4 and R-5 One-Family Residential Districts:]

(1) Private garage.

(2) Garden house, tool house, swimming pool, playhouse, or greenhouse, none used for commercial purposes.

(3) A home occupation.

(4) Automobile parking for domestic use of the dwelling unit.

(5) Any use customarily incidental to the permitted principal use.

Sec. 603. ~~Special exception uses~~Conditional uses.

[The following ~~special exception~~conditional uses shall be allowed in the R-1, R-2, R-3, R-4 and R-5 One-Family Residential Districts:]

(1) Churches and similar houses of worship, subject to approval by the planning commission according to article 26 and the following standards:

a. Shall have direct access to a thoroughfare and/or a neighborhood collector street, as designated on the city's adopted master plan.

b. If the only access to the site is from a neighborhood collector street, the applicant shall submit a traffic impact study illustrating expected volume, peak days and hours, anticipated turning movements, and a plan for mitigating any adverse impacts on local residential streets that provide alternate routes of access.

(2) Elementary, intermediate, and senior high schools, subject to approval by the planning commission according to article 26 and the following standards:

a. Shall have direct access to a thoroughfare and/or a neighborhood collector street, as designated on the city's adopted master plan.

b. If the only access to the site is from a neighborhood collector street, the applicant shall submit a traffic impact study illustrating expected volume, peak days and hours, anticipated turning movements, and a plan for mitigating any adverse impacts on local residential streets that provide alternate routes of access.

(3) Public or non-profit recreation uses, such as parks, playgrounds, golf courses, ball fields, athletic fields, swimming pools, and community centers.

(4) See section 2108 on public utilities and facilities.

(5) Cemeteries.

(6) Accessory buildings and uses customarily incidental to a use permitted above.

(7) Bed and breakfast homes, subject to section 2114.

ARTICLE 7. RT, TWO-FAMILY RESIDENTIAL DISTRICT

Sec. 700. Intent.

(a) This district is intended to regulate areas already having a significant number of two-family dwellings or areas in which there are located a significant number of large dwellings which can feasibly be converted to two-family dwellings, provided that the area, height, bulk, and placement regulations of this district are satisfied.

Sec. 701. Permitted principal uses.

[The following principal uses shall be allowed in the RT, Two-Family Residential District:]

(1) One-family dwellings, subject to the regulations of the R-2 District.

(2) Two-family dwellings.

Sec. 702. Permitted accessory uses.

[The following accessory uses shall be allowed in the RT, Two-Family Residential District:]

(1) Same as R-2 District.

Sec. 703. ~~Special exception uses~~Conditional uses.

[The following ~~special exception uses~~Conditional uses shall be allowed in the RT, Two-Family Residential District:]

(1) Same as R-2 District.

ARTICLE 8. RM-1 - MULTIPLE-FAMILY RESIDENTIAL/MIXED RESIDENTIAL DISTRICT

Sec. 800. Intent.

(a) By allowing a mix of residential building types, this district is intended to contribute to the diversification of the community's housing. RM-1/Mixed Residential districts are intended to be located at sites suitable for a residential environment.

Sec. 801. Permitted principal uses.

The following principal uses shall be allowed in the RM-1 Multiple-Family Residential/Mixed Residential District:

(1) Two-family dwellings, subject to the area, height, bulk and placement regulations of the R-2 District.

(2) Multifamily dwellings.

Sec. 802. Permitted accessory uses.

The following accessory uses shall be allowed in the RM-1 Multiple-Family Residential/Mixed Residential District:

(1) Same as R-2 District.

(2) Private swimming pool designed and operated for occupants of principal buildings and their personal guests.

(3) For multifamily dwellings, off-street parking, carports, garages, recreational facilities, swimming pools, club houses, maintenance and management buildings, and similar facilities primarily for the use of the residents.

Sec. 803. ~~Special exception~~ Conditional uses.

The following ~~special exception~~conditional uses shall be allowed in the RM-1 Multiple-Family Residential/Mixed Residential District:

(1) Same as R-2 District.

(2) ~~Hospitals, c~~Convalescent homes, nursing homes: on a site of at least five acres.

(3) Group housing at a density of at least 1,000 square feet lot area per person in residence.

(4) Bed and breakfast homes, subject to section 2114.

Sec. 804. Development Standards.

The following development standards shall apply to development in the RM-1 Multiple-Family Residential/Mixed Residential District:

(1) Parking: Parking shall be located behind the building. Garages should not protrude beyond the front façade of the building.

(2) Front Porches. Unenclosed front porches should be allowed to encroach up to 8 feet into the front yard setback area.

ARTICLE 9. RM-2 - MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 900. Intent.

(a) Same as RM-1 District. In this RM-2 District, structures of greater building height and density than in the RM-1 District are allowable as ~~special exception~~conditional uses. Density and lot area requirements of this district for multifamily dwellings of not more than two stories are greater than in RM-1 districts, reflecting improved environmental standards.

Sec. 901. Permitted principal uses.

The following principal uses shall be allowed in the RM-2, Multiple-Family Residential District:

(1) One-family dwellings, subject to the regulations of the R-2 District.

(2) Multifamily dwellings in buildings of not more than two stories, subject to the regulations of this district.

Sec. 902. Permitted accessory uses.

The following accessory uses shall be allowed in the RM-2, Multiple-Family Residential District:

(1) Same as RM-1 District.

Sec. 903. ~~Special exception~~Conditional uses.

The following ~~special exception~~conditional uses shall be allowed in the RM-2, Multiple-Family Residential District:

(1) Same as RM-1 District.

(2) Multifamily dwellings in buildings of more than two stories but not more than six stories and 80 feet building height: subject to the area, height, bulk, and placement regulations for such building(s) in this district.

(3) Within a multifamily building containing at least 80 dwelling units, the following uses: restaurant, coffee shop, bookstore, barber shop, beauty shop, laundromat, valet service, drug store, and similar uses intended for the convenience and patronage of the building's residents. These uses are subject to the conditions set forth below:

a. The total floor area of any single such establishment shall not exceed 2,000 square feet.

b. The total floor area of all such establishments shall not exceed the number of dwelling units in the building times 100 square feet.

c. There shall be no outdoor advertising of such establishments other than one announcement sign not to exceed four square feet for each establishment.

d. Such other conditions as shall be required by the city planning commission in conjunction with approval of the site plan.

(4) Mixed-use residential/office developments may be permitted in the RM-2 districts, only after conditional use approval by the planning commission following a public hearing, and subject to the following standards:

a. Mixed-use projects may only include residential and office uses, except for buildings of at least 80 residential units which may include personal services establishments subject to subsection (3) of this section.

b. Only principal permitted office uses allowed in the O-2, Restricted Office districts may be included in mixed-use projects.

c. The maximum ratio of office to residential floor area, in percent, shall be 30 percent office to 70 percent residential.

d. ~~Only properties zoned RM-2 and immediately adjoining the downtown (CBD and B-1 zones) are suitable for mixed-use developments.~~

~~e. Mixed-use developments must provide all outdoor recreation and open space required for the residential units in the development.~~

~~f. The size and scale of the development, and specifically the maximum number of stories, shall be at the discretion of the planning commission. The commission shall base any limitations on the number of stories on its impact on and compatibility with the immediate neighborhood, as determined by the commission.~~

~~g.~~ Mixed residential/office developments shall demonstrate separation of the two uses, either by floor, by means of design features such as special lobbies, or otherwise, to the satisfaction of the planning commission.

Sec. 904. Development Standards.

The following development standards shall apply to development in the RM-2, Multiple-Family Residential District:

(1) Parking: Parking shall be located behind the building. Garages should not protrude beyond the front façade of the building.

(2) Front Porches. Unenclosed front porches should be allowed to encroach up to 8 feet into the front yard setback area.

ARTICLE 10. ~~MHP, MOBILE HOME PARK RESIDENTIAL DISTRICT~~RESERVED

~~Sec. 1000. Permitted principal use.~~

~~[The following principal uses shall be allowed in the MHP, Mobile Home Park Residential District:]~~

~~(1) Mobile home park for mobile home dwellings, subject to the requirements of Act 243, Public Acts of 1959 as amended, and the requirements of this district. See the definition of *Dwelling, mobile home,* [in section 3902].~~

~~Sec. 1001. Requirements.~~

~~(a) Utilities. All mobile home sites shall be furnished with connections to public water and public sanitary sewer systems, or to city approved community water and community sanitary sewer systems. Each mobile home site shall be located within 300 feet of a fire hydrant along a roadway. Electrical and telephone distribution lines shall be placed underground. Each mobile home park shall have a master underground television antenna system, exterior television antennas shall not be permitted on individual mobile homes. All fuel tanks shall be underground. The mobile home park shall provide a system of garbage and rubbish storage, collection, and disposal, subject to the approval of the city.~~

~~(b) Building height. No mobile home shall exceed one story or 12 feet building height, and no other building or structure shall exceed 1½ stories or 25 feet building height.~~

~~(c) Lot standards. Each mobile home site shall have a minimum of 5,000 square feet land area and shall only be occupied by one mobile home. The minimum lot depth shall be 90 feet. There shall be a rear yard of not less than ten feet at the rear end of the site and a front yard of not less than 15 feet at the front of the site.~~

Appurtenances and utilities, such as sewer, water, and electricity hookups, shall be placed on the site to permit the above setbacks. The sum of the side yards at the entry side and non-entry side of the mobile home site shall be not less than 30 feet: provided, however, that there shall be a side yard of not less than 15 feet at the entry side and a side yard of not less than ten feet at the non-entry side. For irregularly shaped yards, the sum of the side yards is determined as the sum of the average width of each side yard, provided that the required minimums are maintained at all points in the side yard. Street rights-of-way described in subsection (k) of this section shall not be counted as part of the required mobile home site.

(d) Canopies or awnings may be located only on the entry side, but not closer than ten feet to any lot line of the mobile home site. Any such canopy or awning area shall not be used for bedroom or sleeping quarters, and shall not be enclosed except by screens on the three exposed sides.

(e) Each mobile home site shall be provided with an apron not less than 14 feet by 65 feet, constructed of solid concrete of at least five inches thickness, and shall consist of 3,000-pound concrete. Each mobile home shall be placed on and tied to such an apron. Each mobile home shall be equipped with a fire extinguisher and with a smoke sensor of a size and type approved by the building inspector.

(f) An outdoor patio area of not less than 180 square feet shall be provided on each trailer site, conveniently located to the entrance of the mobile home and appropriately related to open areas of the lot and other facilities, for the purpose of providing suitable outdoor living space to supplement the interior space of mobile home.

(g) The occupancy load of any mobile home shall be limited to provide no less than 600 cubic feet of air space per occupancy, exclusive of the cubic air space of toilet rooms and closets.

(h) Each mobile home may be provided with one metal utility cabinet, which shall not exceed four feet in width, three feet in depth, and five feet in height, which shall be uniform as to size and location throughout the mobile home park. All cabinets shall be kept clean and shall be maintained in a good condition.

(i) Concrete walkways shall be provided from each mobile home entrance area to roadway sidewalks.

(j) Each mobile home shall be jacked up on a uniform jack or uniform block which shall be supplied by the mobile home park management. Skirts are required on any mobile home, subject to uniform skirting approved by the mobile home park management.

(k) Roadway standards.

(1) *Streets.* The mobile home park shall have direct access to a thoroughfare or highway. Streets shall be provided in the mobile home park for convenient access to every mobile home site and to other facilities in the mobile home park. The street system shall provide convenient circulation by means of minor streets and properly located collector and arterial streets. Closed ends of dead-end streets shall be provided with turning circle of not less than 40 feet outside radius.

(2) *[Rights-of-way.]* The rights-of-way of streets shall be adequate to accommodate the planned widths of pavements, sidewalks, and planting strips, but shall not be less than 60 feet for main drives or entrance drives, and not less than 50 feet for minor or secondary streets. All streets shall be paved and satisfy the construction standards of the City of Rochester for paved streets. No parking shall be permitted on any roadway except as specifically provided for in the approved site plan. All mobile home lots shall abut a roadway or paved maneuvering lane. All streets shall have enclosed storm drainage separated from sanitary sewers. All streets shall be lighted and curbed. Entrance road pavements separated by an island or planting area shall have a minimum pavement width of 20 feet in each direction. All local roadways within the mobile home park, excluding any portion to be used for parking, shall have a minimum pavement width of 24 feet. A system of paved sidewalks shall be provided throughout the mobile home park, and shall include walkways along main drives and secondary streets. These paved walkways shall be not less than three feet in width and not less than four inches in thickness. The secondary walkways, including walks from each mobile home entrance to the primary walk system,

shall be not less than 30 inches wide and not less than four inches thick. All walks shall consist of 3,000-pound concrete.

(l) There shall be provided an area of not less than 500 square feet for recreation for each mobile home lot in the mobile home park. Each recreation area shall have a minimum land area of not less than 5,000 square feet, which shall be no longer than two times its width, and every mobile home lot shall be within at least 500 feet from such recreation area. Recreation areas shall be developed and maintained by the management.

(m) A 50 foot wide greenbelt shall be located and continually maintained along all exterior boundary lot lines of the mobile home park. See article 28 of this ordinance.

(n) Reserved.

(o) Each mobile home site, except for that portion constituting the apron for the mobile home, shall be landscaped with suitable ground cover. No storage of any kind shall be permitted beneath any mobile home, and each mobile home shall be maintained in a clean and presentable condition at all times. Individual mobile homes may have lot line fences that shall be uniform in height not to exceed 30 inches in height, and shall be constructed in such a manner so as not to impede firemen access to all sides of each mobile home.

(p) Mobile home park land area. A mobile home park shall be constructed on a tract of no less than 20 acres.

(q) The tract proposed shall have not less than 50 completed home sites available at first occupancy.

(r) Off-street parking. Off-street parking shall be provided at the rate of at least two car spaces for each mobile home site. Of this requirement, at least one space per mobile home site shall be provided on each site.

(s) No unlicensed motor vehicle of any type shall be parked within the park at any time, except within a covered building or enclosed yard. An enclosed yard shall be furnished for the parking of recreational vehicles, boats, or similar equipment. No motorized recreational vehicles or boats shall be parked on mobile home sites.

(t) Signs.

(1) For an individual mobile home, one sign displaying the street number and name of the occupant is permitted, not exceeding one square foot in surface area.

(2) Accessory building of the mobile home park, such as management office, laundry, and so on, may be identified by not more than one sign, with no sign exceeding ten square feet in surface area.

(u) No nonresidential use of any kind shall be permitted in any mobile home or building or on the premises of the mobile home park, other than the operation of the park and its incidental services.

(v) Duties of owners and operators. It shall be the duty of the owner and operator of each mobile home park to enforce the following regulations:

(1) Keeping of all domestic pets shall be in compliance with all city ordinances.

(2) To report to the Oakland County Health Department and the city manager the existence of any unsanitary condition prevailing within the boundaries of this mobile home park; to notify the county health department of any person who is affected or suspected of being affected with any infections or communicable diseases; to notify the city manager of any ordinance violations; and to furnish the city clerk at one month intervals a statement showing the number of occupied mobile homes in the mobile home park.

(3) In order to safeguard against the hazards of fire, to prohibit the parking of any mobile home not possessing two exits within such mobile home park. One such exit may be an emergency type, provided that it is capable of being easily operated by small children, and provided approval has been granted by the city or state fire marshal.

(w) Permit required. It shall be unlawful for any person to maintain or operate any mobile home park or facility therein unless such person shall first obtain a permit therefor as required by law.

(1) Contents of permit and application. Application for a mobile home park shall be filed with the city clerk and shall contain the following:

a. Name and address of applicant.

b. Legal description and location of mobile home park.

c. A complete plan showing compliance with the provisions of this ordinance on a topographical survey of the site.

d. Plans and specifications of all buildings and other improvements constructed within the mobile home park, including location of roads, walkways, off-street parking spaces, individual mobile home units, showing method of providing general utilities. Such other information as may be requested by the city to enable it to determine if the proposed park will comply with all legal requirements.

(2) Approval required. All applicants for a use permit for a mobile home park shall be first submitted to the city planning commission for its review and comment. After the planning commission has submitted its report and recommendation, or after the lapse of 120 days, the application shall be made to the Michigan Health Commissioner or his representatives.

(3) Transfer of permit. Transfer of the permit shall be subject to the same application and approval requirements as those for an original permit application.

(x) Construction and safety standards of mobile home unit. No mobile home shall be moved into a mobile home park which is not in compliance with the then currently applicable Mobile Home Construction and Safety Standards of the United States government as promulgated by the U.S. Department of Housing and Urban Development.

(y) Move-in or occupancy inspection. Each mobile home, prior to initial occupancy and to each subsequent occupancy, shall be inspected by the appropriate departments of the city for compliance with all city and state codes [and] city ordinance[s], and compliance with [these] provisions and all city requirements relative to electrical, plumbing, heating, building, and air conditioning requirements. An inspection fee of $25.00 shall be paid to the city, and no occupancy permit shall be issued until said fee is paid and the premises certified for occupancy.

Sec. 1002. Special exception uses.

(a) See section 2108, on public utilities and facilities.

ARTICLE 11. CBD, CENTRAL BUSINESS DISTRICT[1]

Sec. 1100. Intent.

(a) The CBD District is intended to function as an intensively developed, major business district, serving a large trade area extending beyond the city with retail, office, personal service, and institutional activities. To encourage and enhance pedestrian circulation, shopping safety, and convenience, certain uses are prohibited which tend to break up and disrupt the intensive concentration of pedestrian oriented uses, such as but not limited: automotive related service and repair including muffler shops, tire stores, quick lubes, auto body repair, engine rebuilding, brake shops, automotive stereo and telephone installation, and similar

[1]Editor's note(s)—Ord. No. 2023-03, § 1, adopted April 24, 2023, amended Art. 11, §§ 1100—1103 in its to read as herein set out. Former Art. 11 pertained to similar subject matter and derived from Ord. No. 2009-13, adopted May 11, 2009; Ord. No. 2009-21, pts. 2, 3, adopted November, 2009; Ord. No. 2009-22, pt. 2, adopted November 9, 2009.

automotive related activities~~, and certain u~~. Uses that do not typically generate walk in traffic may be restricted to upper stories.

(Ord. No. 2023-03, § 1, 4-24-2023)

Sec. 1101. Permitted principal uses.

[The following principal uses shall be allowed in the CBD, Central Business District:]

(1) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to: foods, drugs, liquor, furniture, clothing, dry goods, notions, or hardware.

(2) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers, and dry cleaners.

(3) Restaurants and taverns where patrons are served only while seated within the building occupied by such establishment.

(4) Theaters when completely enclosed; houses of worship.

(5) Offices and office buildings of an executive, administrative, or professional nature.* See below for restrictions.

(6) Banks, with drive-in facilities permitted when said drive-in facilities are incidental to the principal function.

(7) Municipal buildings and post office.

(8) Offices and showrooms of plumbers, electrician, decorators, or similar trades, in connection with which not more than 50 percent of the floor area of the building or part of the building occupied by said establishment is used for making, assembling, remodeling, repairing, altering, finishing, or refinishing its products or merchandise; and provided that the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices, or display. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.

(9) Business schools or private schools. Examples of private schools permitted herein include, but are not limited to, the following: dance studios, music and voice schools, and art studios.

(10) Newspaper offices and printing plants.* See below for restrictions.

(11) Warehouse and storage facilities when incident to and physically connected with any principal use permitted, provided that such facility be within the confines of the building or part thereof occupied by said establishment.* See below for restrictions.

(12) Bed and breakfast homes, subject to section 2114.

(13) Other uses which are similar to the above and subject to the following restrictions:

a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from the premises where produced.

b. All business, servicing, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

c. Outdoor storage of commodities shall be expressly prohibited.

* The uses set forth in section 1101(5), (10) and (11) are not permitted on street level for properties fronting Main Street between 2nd Street and University Drive.

(Ord. No. 2023-03, § 1, 4-24-2023)

Sec. 1102. Permitted accessory use.

[The following accessory uses shall be allowed in the CBD, Central Business District:]

(1) Any use or building customarily incidental to a permitted principal use excluding any type of use that would otherwise not be permitted on street level under section 1101.

(2) Mechanical amusement devises, not exceeding three per establishment, and:

a. Licensed under chapter 6 of the City Code;

b. Only in a restaurant or tavern conforming to section 1101(3), [related to] permitted principal uses;

c. If in a restaurant or tavern serving alcoholic beverages, the establishment shall have a Class C liquor license.

(Ord. No. 2023-03, § 1, 4-24-2023)

Sec. 1103. ~~Special exception~~Conditional ~~-~~uses.

[The following ~~special exception~~conditional uses shall be allowed in the CBD, Central Business District:]

(1) Bus station.

(2) See section 2108 on public utilities and facilities.

(3) Outdoor dining, when incidental to a permitted restaurant or tavern, and subject to section 2121, outdoor dining standards.

Parking for an outdoor cafe shall be determined by the planning commission based upon the size of the outdoor dining area in relation to the permanent seating in the restaurant, as follows:

a. Outdoor dining areas that are strictly on a "weather permitting basis" may be approved without additional parking if there is seating for 30 or fewer patrons.

b. Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures to extend the season and/or to avoid inclement weather conditions, such as rain, may be required to provide additional parking.

c. In determining whether a restaurant must provide additional parking for its outdoor cafe, the planning commission will use the following guidelines:

1. If the outdoor seating is 25 percent or less of the seating capacity indoors, no additional parking is necessary.

2. If the outdoor seating is 26 to 50 percent of the seating capacity indoors, the restaurant may be required to provide an additional ~~up to 1~~25 percent of the parking required for the indoor space.

3. If the outdoor seating is over 50 percent of the seating capacity indoors, the restaurant may be required to provide ~~up to~~ an additional ~~1~~50 percent of the parking required for the indoor space.

(4) Funeral home.

(5) Adult bookstore, adult cabaret and adult motion picture theater as defined in article 39 (Definitions), but subject to the standards of Article 21 Section ~~following~~ 2124 (~~restrictions and regulations~~, which shall be in addition to those set forth in article 26 of this Zoning Code~~, to wit:~~.

(6) See section 2111 on upper story apartments.

(7) Overnight lodging facilities subject to the following standards:

a. Each rental unit shall be no less than 250 square feet in floor area;

b. Each unit shall have its own private bathroom facility;

c. Rental units, including ancillary support spaces and uses, are not permitted on street levels.

(8) Short-term rental in accordance with the Rochester Rental Property Ordinance - Chapter 12 of the Rochester City Code and only to the extent residential uses are otherwise permitted.

(9) Architectural design standards shall conform to guidelines established in Section 2118.

~~(108) Buildings in the CBD may include a third story subject to conditional use approval and further provided that the third story shall not exceed 40 feet, shall be enclosed in a mansard roof or setback 15 feet from the front building line.~~

(Ord. No. 2023-03, § 1, 4-24-2023; Ord. No. 2024-02, § 1, 7-8-2024)

ARTICLE 11A. DE-1 DOWNTOWN EDGE-1 DISTRICT

Sec 1100.A. Intent

(a) The Downtown Edge-1 District is intended as an extension of the central business district west of Main Street to promote the development of a pedestrian oriented and accessible, mixed-use district in which a variety of retail, commercial, office, service, civic and residential uses are permitted. Each use shall be complementary to the stated function and purpose of the district and shall not have adverse impact upon adjacent street capacity and safety, utilities, and other city services. The intent is to support the central business district, create a mix of businesses that encourages an active pedestrian environment and promotes both convenience and destination shopping activities while providing opportunities for other uses including office and service uses.

The district discourages the development of separate off-street parking facilities for each individual use and encourages the development of off-street parking facilities designed to accommodate the needs of several individual uses.

To encourage and enhance pedestrian circulation, shopping safety, and convenience, certain uses are prohibited which tend to break up and disrupt the intensive concentration of pedestrian oriented uses, such as but not limited: automotive related service and repair including muffler shops, tire stores, quick lubes, auto body repair, engine rebuilding, brake shops, automotive stereo and telephone installation, and similar automotive related activities.

SECTION 1101.A. Permitted principal uses.

The following principal uses shall be allowed in the DE-1, Downtown Edge 1 District:

(1) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to: foods, drugs, furniture, clothing, dry goods, notions, or hardware.

(2) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers, and dry cleaners.

(3) Restaurants and taverns where patrons are served only while seated within the building occupied by

such establishment. An outdoor cafe, when accessory to a permitted restaurant or tavern, may be permitted as a conditional use. Nothing in this section shall be construed to prohibit an establishment that has a carry-out service, ice cream parlor, bakery or similar use where patrons may leave the establishment before consuming the food purchased.

(4) Residential units when located above the first floor per standards of Article 21 Section 2111.

(5) Theaters when completely enclosed.

(6) Municipal parking facilities such as surface parking lots and parking decks.

(7) Offices and office buildings of an executive, administrative, or professional nature.

(8) Financial institutions with no drive-through or drive-in facilities.

(9) Offices and showrooms of plumbers, electrician, decorators, or similar trades, in connection with which not more than fifty (50) percent of the floor area of the building or part of the building occupied by said establishment is used for making, assembling, remodeling, repairing, altering, finishing, or refinishing its products or merchandise; and provided that the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices, or display. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.

(10) Business schools or private schools. Examples of private schools permitted herein include, but are not limited to, the following: dance studios, music and voice schools, and art studios.

(11) Other uses which are similar to the above and subject to the following restrictions:

a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from premises where produced.

b. All business, servicing, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

c. Outdoor storage of commodities shall be expressly prohibited.

SECTION 1102.A. Permitted accessory uses.

(1) Any use or building customarily incidental to a permitted principal use.

(2) Mechanical amusement devices, not exceeding three (3) per establishment, and:

a. Licensed under Chapter 6 of the City Code;

b. Only in a restaurant or tavern conforming to Number 3 above, permitted principal uses;

c. If in a restaurant or tavern serving alcoholic beverages, the establishment shall have a Class C liquor license.

SECTION 1103.A. Conditional Uses.

(1) See section 2108 on public utilities and facilities.

(2) Convenience stores that also sell liquor, subject to Article II. Liquor license Control in the City's Code of Ordinances.

(3) Outdoor cafe, when incidental to a permitted restaurant or tavern, where such outdoor cafe will not occupy any portion of a public right-of-way. A proposal for an outdoor cafe that includes the use of any part of a public right-of-way must be accomplished by a draft license agreement, utilizing the City

Council's standard license agreement format. A copy of the format for the standard license agreement may be obtained with the Conditional Use application. After Planning Commission approval of Conditional Use, the proposed license agreement will be forwarded to the City Council for their consideration. Nothing in this section shall be construed to require a license agreement for an establishment with a carry-out service, ice cream parlor, or similar use where patrons may leave the establishment before consuming the food purchased, unless said establishment chooses to operate an outdoor cafe and seeks approval as set forth above.

Parking for an outdoor cafe shall be determined by the Planning Commission based upon the size of the outdoor dining area in relation to the permanent seating in the restaurant, as follows:

a. Outdoor dining areas that are strictly on a "weather permitting basis" may be approved without additional parking if there is seating for 30 or fewer patrons,

b. Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures to extend the season and/or to avoid inclement weather conditions, such as rain, may be required to provide additional parking.

c. In determining whether a restaurant must provide additional parking for its outdoor cafe, the Planning Commission will use the following guidelines:

1. If the outdoor seating is 25% or less of the seating capacity indoors, no additional parking is necessary.

2. If the outdoor seating is 26% - 50% of the seating capacity indoors, the restaurant may be required to an additional 25% parking beyond the parking required for the indoor space.

3. If the outdoor seating is over 50% of the seating capacity indoors, the restaurant may be required to provide an additional 50% parking beyond the parking required for the indoor space.

(4) Funeral home.

(5) Houses of worship.

(6) Bed & breakfast homes, subject to Section 2114.

SECTION 1104.A. Development standards.

The required minimum useable floor area, minimum required setback dimensions, maximum building height, minimum area, and lot size for the Downtown Edge-2 District shall be as set forth in this section.

(1) Front Yard. Buildings shall be built at zero setback; however, the Planning Commission shall have the discretion to modify the setback requirement as part of site plan review and approval pursuant to Article 27 of the Zoning Ordinance. Factors taken into consideration for such modification shall include but not be limited to predominant building line established along the block face between the two closest intersecting streets, creation of plazas or other public amenities into the area of the proposed setback.

(2) Patios or outdoor decks located on public sidewalks shall be located in a manner adequate to allow for a minimum 5 foot pedestrian clearance on the sides.

(3) Patios or outdoor decks located in the block extending between Pine and Walnut, W. University and E. Fourth Street shall be located with a minimum setback of 10 feet from the property lines. The setback area shall be planted with a dense stand of evergreens to create a screen six (6) feet tall or other form of landscaping and/or screening deemed suitable by the Planning Commission, to mitigate any noise issues and concerns for abutting residentially zoned or used properties. Roof top dining areas/terraces shall be provided with screening to the satisfaction of the Planning Commission that mitigates noise

concerns. The Planning Commission may also place restrictions on the hours of operation of such outdoor patio/deck/rooftop dining areas as a conditional use.

(4) Side Yard, corner lot. Structures are recommended to be built at side lot line with no setbacks. Maximum setback dimensions of the principal building(s) and attachments thereto, on a corner lot having on its side street an abutting interior lot shall not exceed 10 feet.

(5) Rear Yard. Minimum required setback shall be 5 feet.

(6) Building Height. The maximum height of the principal building shall not exceed 35 feet or 3 stories. All proposed structures must meet line-of-sight test established with an existing two-story structure located on Main Street within downtown.

(7) Architectural design standards shall conform to guidelines established in Section 2118.

(8) Parking. Parking may be accommodated as on-site decks or integrated into the building design. Access to parking off public alleys shall be appropriately screened. Use of public parking/decks is encouraged.

(9) Frontage on Walnut Street must be occupied by storefronts and access to ground story parking must be off public alley. For corner lots, access to parking may be allowed from the side street, upon Planning Commission review and approval of the site plan design and layout.

ARTICLE 11B. DE-2 DOWNTOWN EDGE-2 DISTRICT

SECTION 1100.B. INTENT

(a) The Downtown Edge-2 District is intended as an extension of the downtown's core area to the east of Main Street, extending between the alley on the east side of Main Street to Water Street, and from W. University Drive to Mill Street. The district also includes parcels on the west side of Main Street occupying the block between W. Second and First streets, extending from Walnut to the alley to its east; also included are a block of parcels on the north side of W. University Drive, west of Main Street. With the core area being maximized with many established uses and limited area for new businesses to come into the downtown, the Edge-2 district encourages expansion of businesses from the downtown core, while making provisions for parking to support downtown businesses. Allowing for additional business expansion from the downtown is intended to add to the City's tax base.

The east side of Main Street is not limited by proximity to residential neighborhoods unlike the west side of Main Street; therefore, the scope for additional business and service uses is greater. The parcels on the west side of Main Street within this district, abuts multiple family and commercial/office zoned and use parcels. The design guidelines provided are intended to minimize potential impacts of the uses allowable within the district on the surrounding areas. The intent is to allow for a mix of commercial and loft style residential units and parking facilities. Due to the drop in grade on the east side of Main Street, this district could be allowed a higher density of development but only to the extent that it does not detract from the Main Street skyline. While the uses proposed in this district are intended to continue the pedestrian-centric design of the downtown, some higher intensity vehicle uses can also be accommodated in this district. Extensive automotive uses are not appropriate for this area; however may be considered in a very limited area on the east side of Main Street, along the south border of the district based on existing land use patterns.

SECTION 1101.B. Permitted principal uses.

The following principal uses shall be allowed in the DE-2, Downtown Edge 2 District:

(1) Any generally recognized retail business which supplies commodities on the premises within a

completely enclosed building, such as, but not limited to: foods, drugs, liquor, furniture, clothing, dry goods, notions, or hardware.

(2) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers, and dry cleaners.

(3) Restaurants and taverns where patrons are served only while seated within the building occupied by such establishment. An outdoor cafe, when accessory to a permitted restaurant or tavern, may be permitted as a Conditional Use. Nothing in this section shall be construed to prohibit an establishment that has a carry-out service, ice cream parlor, bakery or similar use where patrons may leave the establishment before consuming the food purchased.

(4) Residential units when located above the first floor per standards of Article 21 Section 2111.

(5) Theaters when completely enclosed.

(6) Houses of worship.

(7) Municipal parking facilities such as surface parking lots and parking decks.

(8) Offices and office buildings of an executive, administrative, or professional nature.

(9) Banks, with drive-in facilities permitted when said drive-in facilities are incidental to the principal function.

(10) Offices and showrooms of plumbers, electrician, decorators, or similar trades, in connection with which not more than fifty (50) percent of the floor area of the building or part of the building occupied by said establishment is used for making, assembling, remodeling, repairing, altering, finishing, or refinishing its products or merchandise; and provided that the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices, or display. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.

(11) Business schools or private schools. Examples of private schools permitted herein include, but are not limited to, the following: dance studios, music and voice schools, and art studios.

(12) Other uses which are similar to the above and subject to the following restrictions:

a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from premises where produced.

b. All business, servicing, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

c. Outdoor storage of commodities shall be expressly prohibited.

SECTION 1102.B. Permitted accessory uses.

(1) Any use or building customarily incidental to a permitted principal use.

(2) Mechanical amusement devices, not exceeding three (3) per establishment, and:

a. Licensed under Chapter 6 of the City Code;

b. Only in a restaurant or tavern conforming to Number 3 above, Permitted Principal Uses;

~~a.~~c. If in a restaurant or tavern serving alcoholic beverages, the establishment shall have a Class C liquor license.

(3) Warehouse and storage facilities when incident to and physically connected with any principal use permitted, provided that such facility is located within the confines of the building or part thereof occupied by said establishment.

SECTION 1103.B. Conditional Uses.

(1) Public utilities and facilities.

(2) Outdoor cafe, when incidental to a permitted restaurant or tavern, where such outdoor cafe will not occupy any portion of a public right-of-way. A proposal for an outdoor cafe that includes the use of any part of a public right-of-way must be accomplished by a draft license agreement, utilizing the City Council's standard license agreement format. A copy of the format for the standard license agreement may be obtained with the Conditional use application. After Planning Commission approval of the Conditional use, the proposed license agreement will be forwarded to the City Council for their consideration. Nothing in this section shall be construed to require a license agreement for an establishment with a carry-out service, ice cream parlor, or similar use where patrons may leave the establishment before consuming the food purchased, unless said establishment chooses to operate an outdoor cafe and seeks approval as set forth above.

Parking for an outdoor cafe shall be determined by the Planning Commission based upon the size of the outdoor dining area in relation to the permanent seating in the restaurant, as follows:

a. Outdoor dining areas that are strictly on a "weather permitting basis" may be approved without additional parking if there is seating for 30 or fewer patrons,

b. Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures to extend the season and/or to avoid inclement weather conditions, such as rain, may be required to provide additional parking.

c. In determining whether a restaurant must provide additional parking for its outdoor cafe, the Planning Commission will use the following guidelines:

1. If the outdoor seating is 25% or less of the seating capacity indoors, no additional parking is necessary.

2. If the outdoor seating is 26% - 50% of the seating capacity indoors, the restaurant may be required to provide an additional 25% parking beyond the parking required for the indoor space.

3. If the outdoor seating is over 50% of the seating capacity indoors, the restaurant may be required to provide an additional 50% parking beyond the parking required for the indoor space.

(3) Funeral home.

(4) Bed & breakfast homes, subject to Section 2114.

SECTION 1104.B. Development standards.

The required minimum useable floor area, minimum required setback dimensions, maximum building height, minimum area, and lot size for the Downtown Edge-2 District shall be as set forth in this section.

(1) Front Yard. The predominant existing pattern of development features structures built at setbacks of 5-10 feet with landscaping between the sidewalk and building. Structures are recommended to be built at a setback consistent with the established front yard setback on the block on that side of the street.

(2) Patios or outdoor decks located on public sidewalks shall be located in a manner adequate to allow for a minimum 5-foot pedestrian clearance on the sides.

(3) Side Yard, corner lot. Structures are recommended to be built at side lot line with no setbacks. Maximum setback dimensions of the principal building(s) and attachments thereto, on a corner lot having on its side street an abutting interior lot shall not exceed 10 feet.

(4) Rear Yard. Minimum required setback shall be 5 feet.

(5) Building Height. Maximum height of the principal building shall not exceed 40 feet or 3 stories. However, the grade drop-off allows for flexibility in building height in this district. Additional building height shall be permitted through the special projects approval process upon demonstration by the applicant that the proposed increase in building height will not exceed the line of sight test from Main Street.

(6) Architectural design standards shall conform to guidelines established in Section 2118.

Parking. Parking shall be accommodated as on-site decks or integrated into the building design.

ARTICLE 11C. T - TRANSITION DISTRICT

SECTION 1100.C. Intent

(a) The Transition District is intended to act as a buffer between the higher intensity commercial uses in the Central Business District and the Downtown Edge-1 District and adjacent single family residential neighborhoods. The uses supported in this area are a mix of residential, office and low-intensity commercial uses. Several buildings in this area have historic significance and the goal is to preserve their historic integrity while allowing for their successful adaptation for new uses. The buffering goal is intended to be accomplished through a combination of site design, setbacks and landscaping. Emphasis is on preserving historic structures and allowing for minimal impact on the single-family residential districts by limiting all vehicular access to Walnut only.

The T district is further intended to maintain and enhance a viable mix of complimentary uses and discourage domination by any single category of use; preserve and enhance the historic character as a community asset that contributes positively to property values, community identity, and a sense of place; extend greater opportunities for traditional community living, working, housing and recreation to citizens and residents of the city; promote developments where the physical, visual and spatial characteristics are established and reinforced through the consistent use of traditional urban design and architectural design elements; discourage commercial and business uses that create objectionable noise, glare or odors; promote uses that support and compliment the retail focus of the Central Business District, such as office and residential uses. The district is referred to in the Master Plan as a larger Downtown Interface area.

SECTION 1101.C. Permitted principal uses.

The following principal uses shall be allowed in the T, Transition District:

(1) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to: foods, drugs, furniture, clothing, dry goods, notions, or hardware.

(2) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers, and dry cleaners.

(3) Restaurants and taverns where patrons are served only while seated within the building occupied by such establishment. An outdoor cafe, when accessory to a permitted restaurant or tavern, may be permitted as a conditional use. Nothing in this section shall be construed to prohibit an establishment that has a carry-out service, ice cream parlor, bakery or similar use where patrons may leave the establishment before consuming the food purchased.

(4) One-family detached dwellings subject to the regulations of the R-1 District.

(5) Two-family dwellings subject to the regulations of the RT District.

(6) Residential units when located above the first floor per standards of Article 21 Section 2111.

(7) Municipal parking facilities such as surface parking lots and parking decks.

(8) Offices of an executive, administrative, or professional nature.

(9) Medical and dental office buildings.

(10) Financial institutions with no drive-through or drive-in facilities.

(11) Other uses which are similar to the above and subject to the following restrictions:

a) That the proposed use(s) will contribute to the viable mix of uses in the district;

b) Is compatible with the uses permitted in the district;

c) Will meet the transition intent of the district;

d) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from the premises where produced.

e) All business, servicing, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

f) Outdoor storage of commodities shall be expressly prohibited.

SECTION 1102.C. Permitted Accessory Use

1. Any use or building customarily incidental to a permitted principal use.

SECTION 1103.C. Conditional Uses

(1) Public utilities and facilities.

(2) Funeral homes.

(3) Outdoor cafe, when incidental to a permitted restaurant or tavern, where such outdoor cafe will not occupy any portion of a public right-of-way. A proposal for an outdoor cafe that includes the use of any part of a public right-of-way must be accomplished by a draft license agreement, utilizing the City Council's standard license agreement format. A copy of the format for the standard license agreement may be obtained with the Conditional use application. After Planning Commission approval of the Conditional use, the proposed license agreement will be forwarded to the City Council for their consideration. Nothing in this section shall be construed to require a license agreement for an establishment with a carry-out service, ice cream parlor, or similar use where patrons may leave the establishment before consuming the food purchased, unless said establishment chooses to operate an outdoor cafe and seeks approval as set forth above.

Parking for an outdoor cafe shall be determined by the Planning Commission based upon the size of the outdoor dining area in relation to the permanent seating in the restaurant, as follows:

a. Outdoor dining areas that are strictly on a "weather permitting basis" may be approved without additional parking if there is seating for 30 or fewer patrons,

b. Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures to extend the season and/or to avoid inclement weather conditions, such as rain, may be required to provide additional parking.

c. In determining whether a restaurant must provide additional parking for its outdoor cafe, the

Planning Commission will use the following guidelines:

1. If the outdoor seating is 25% or less of the seating capacity indoors, no additional parking is necessary.
2. If the outdoor seating is 26% - 50% of the seating capacity indoors, the restaurant may be required to provide an additional 25% parking beyond the parking required for the indoor space.
3. If the outdoor seating is over 50% of the seating capacity indoors, the restaurant may be required to provide an additional 50% parking beyond the parking required for the indoor space.

(4) Houses of worship.

(5) Bed & breakfast homes, subject to Section 2114.

SECTION 1104.C. Development Standards.

The required minimum useable floor area, minimum required setback dimensions, maximum building height, minimum area, and lot size for the Transition (T) District shall be as set forth in this section.

(1) Front Yard (including both street frontages on through lots). Buildings shall be built at a 15-foot setback to maintain the residential character; however, the Planning Commission shall have the discretion to modify the setback requirement as part of site plan review and approval pursuant to Article 27 of the Zoning Ordinance. Factors taken into consideration for such modification shall include but not limited to the predominant building line established along the block face between the two closest intersecting streets, existing building footprint and historic details.

(2) Side Yard. Total of 15 feet with a minimum of 5 feet on each side. Required side yard setback for a comer lot with a side street shall be 15 feet.

(3) Building Height. The maximum height of the principal building shall not exceed 25 feet or 2 stories in keeping with the residential buffer intent of the district.

(4) Access. If a site has access to Walnut Street and Pine Street, ~~T~~the primary pedestrian entrance to the use shall be off Walnut Street or off the side street for a corner lot. Secondary pedestrian access to Pine Street shall be permitted, if required to conform to Building Code standards. All vehicular access shall be limited to Walnut Street only for those sites with access to Walnut Street and Pine Street.

(5) Architectural design standards shall conform to guidelines established in Section 2118.

(6) Parking. Parking may be accommodated on-site or integrated into the building design.

ARTICLE 11D. MU - MIXED-USE DISTRICT

SECTION 1100.D. Intent

(a) The Mixed-Use District is intended to support a wide range of uses and allow for design flexibility. The district can support a variety of commercial, office and residential uses. The natural topography of the various areas within this district varies significantly, which makes building height a significant consideration to ensure little to no impact on the skyline of the traditional Central Business District. The proximity to the Clinton River Trail and the Paint Creek Trail allows for residential developments which would provide recreational amenities and opportunities for the residents. At the same time, the location of some parcels just north of the Central Business District provides opportunities for commercial and mixed uses. The district is oriented towards serving both pedestrian and automotive traffic. The district is referred to in the Master Plan as a larger Downtown Interface area.

SECTION 1101.D. Permitted Principal Uses

The following principal uses shall be allowed in the MU, Mixed-Use District:

(1) Two-family dwellings subject to the regulations of the RT District.

(2) Residential units when located above the first floor per standards of Article 21 Section 2111.

(3) Multiple family dwellings subject to the regulations of the RM-2 District.

(4) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to: foods, drugs, liquor, furniture, clothing, dry goods, notions, or hardware.

(5) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shops (watches, computers, electronic equipment, personal items such as shoes, etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers, and dry-cleaning outlets only, excluding processing facilities.

(6) Restaurants and taverns where patrons are served only while seated within the building occupied by such establishment. An outdoor cafe, when accessory to a permitted restaurant or tavern, may be permitted as a Conditional Use. Nothing in this section shall be construed to prohibit an establishment that has a carry-out service, ice cream parlor, bakery or similar use where patrons may leave the establishment before consuming the food purchased.

(7) Breweries.

(8) Carry-out food establishments, without drive-through facilities.

(9) Office of an executive, administrative, or professional nature.

(10) Medical and dental office uses.

(11) Financial institutions with drive-in facilities permitted when said drive-in facilities are incidental to the principal function.

(12) Offices and showrooms of plumbers, electrician, decorators, or similar trades, in connection with which not more than fifty (50) percent of the floor area of the building or part of the building occupied by said establishment is used for making, assembling, remodeling, repairing, altering, finishing, or refinishing its products or merchandise; and provided that the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices, or display. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.

(13) Health and physical fitness centers including exercise gyms, workout centers, dance and gymnastic studios, yoga, martial arts and other forms of exercise and physical conditioning.

(14) Veterinary hospitals, excluding kennels.

(15) Places of assembly such as theaters, dance halls, assembly halls or similar facilities.

(16) Other uses which are similar to the above and subject to the following restrictions:

a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from the premises where produced.

b. All business, servicing, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

c. Outdoor storage of commodities shall be expressly prohibited.

SECTION 1102.D. Permitted Accessory Use

1. Any use or building customarily incidental to a permitted principal use.

SECTION 1103.D. Conditional Uses

(1) Outdoor cafe, when incidental to a permitted restaurant or tavern, where such outdoor cafe will not occupy any portion of a public right-of-way. A proposal for an outdoor cafe that includes the use of any part of a public right-of-way must be accomplished by a draft license agreement, utilizing the City Council's standard license agreement format. A copy of the format for the standard license agreement may be obtained with the Conditional Use application. After Planning Commission approval of Conditional Use, the proposed license agreement will be forwarded to the City Council for their consideration. Nothing in this section shall be construed to require a license agreement for an establishment with a carry-out service, ice cream parlor, or similar use where patrons may leave the establishment before consuming the food purchased, unless said establishment chooses to operate an outdoor cafe and seeks approval as set forth above.

Parking for an outdoor cafe shall be determined by the Planning Commission based upon the size of the outdoor dining area in relation to the permanent seating in the restaurant, as follows:

a. Outdoor dining areas that are strictly on a "weather permitting basis" may be approved without additional parking if there is seating for 30 or fewer patrons,

b. Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures to extend the season and/or to avoid inclement weather conditions, such as rain, may be required to provide additional parking.

c. In determining whether a restaurant must provide additional parking for its outdoor café, the Planning Commission will use the following guidelines:

1. If the outdoor seating is 25% or less of the seating capacity indoors, no additional parking is necessary.

2. If the outdoor seating is 26% - 50% of the seating capacity indoors, the restaurant may be required to provide an additional 25% parking beyond the parking required for the indoor space.

3. If the outdoor seating is over 50% of the seating capacity indoors, the restaurant may be required to provide an additional 50% parking beyond the parking required for the indoor space.

2. Public utilities and facilities.

3. Funeral homes.

4. Senior housing facilities such as convalescent homes, assisted living and independent living facilities.

5. Hotels.

6. Parking garages and decks.

SECTION 1103.D. Development Standards.

The required minimum useable floor area, minimum required setback dimensions, maximum building height, minimum area, and lot size for the Mixed Use (MU) District shall be as set forth in this section.

(1) The minimum required lot width shall be 50 feet.

(2) Front Yard. Structures shall be built at front lot line with no minimum front yard setback; However, the Planning Commission shall have the discretion to modify the setback requirement as part of site plan

review and approval pursuant to Article 27 of the Zoning Ordinance. Factors taken into consideration for such modification shall include but not be limited to predominant building line established along the block face between the two closest intersecting streets, creation of plazas or other public amenities into the area of the proposed setback.

(3) Side Yard, corner lot. For a corner lot abutting a side street, a minimum setback of 10 feet shall be maintained.

(4) Rear Yard. There is no minimum rear yard setback requirement.

(5) Lot Coverage. Maximum lot coverage shall not exceed 50%.

(6) Building Height. Due to the varied location and existing topography of parcels in this district, the followings standards shall apply:

a. Parcels located on the west side of Elizabeth between East University Drive and E. Second Street, and parcels located on east side of Letica between Parkdale and E. Second Street shall be permitted a maximum building height not to exceed 5 stories or 60 feet. Buildings shall not be less than 4 stories or 48 feet tall, to allow for all rooftop mechanical equipment to be concealed with the use of parapets or other screens, within the maximum permissible height and to maintain a consistent skyline. Buildings taller than that can be approved by the Planning Commission subject to demonstration with skyline tests, detailed diagrams and simulated drawings that the proposed building will not be visible from Main Street. Buildings not meeting the skyline test may not be permitted to exceed the height recommendation even through the special projects approval process.

b. Parcels located with frontage on Main Street, shall be permitted a maximum building height not to exceed 2-1/2 stories or 35 feet. All projects must demonstrate through a skyline test and detailed diagrams that the proposed building will not impact or affect the appearance of the existing downtown core buildings. Buildings shall not be allowed to exceed the maximum permitted height even through the special projects approval process.

c. Buildings accessory to a principal permitted or conditional land use, such as a clubhouse etc., may be less than the minimum height for the district, subject to review and approval of the site plan by the Planning Commission.

(8) Architectural design standards shall conform to guidelines established in Section 2118.

(9) Parking. Parking shall be accommodated on-site within the side or rear yard and screened with landscaping and other decorative elements. Parking may also be located off-site, within convenient walking distance for pedestrians. Use of integrated parking decks to accommodate the parking is encouraged. Parking garages or decks, when provided, shall be accessed from rear or side yard only.

ARTICLE 11E. MU-1 - MIXED USE – 1 DISTRICT

SECTION 1100.E. Intent

(a) The Mixed Use-1 District is intended to support a wide range of uses and allow for design flexibility, while still acting as a transition from the downtown district located to its west. This district can support a variety of commercial, office and residential uses. The natural topography of the area, with a steep grade drop-off heading from Main Street to the east boundary of the district allows for buildings of taller stature without impacting the skyline of the downtown core area. The lack of any single-family residential neighborhoods in the immediate proximity to this area allows for the inclusion of intensive commercial and office uses of land without significant impacts. The proximity to the Clinton River Trail and the Paint Creek Trail allows for residential developments which would provide recreational amenities and opportunities for the residents. The district is oriented towards serving both pedestrian

and automotive traffic. The district is referred to in the Master Plan as a larger Downtown Interface area.

SECTION 1101.E. Permitted Principal Uses

(1) Two-family dwellings subject to the regulations of the RT District.

(2) Residential units when located above the first floor per standards of Article 21 Section 2111.

(3) Multiple family dwellings subject to the regulations of the RM-2 District.

(4) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to: foods, drugs, liquor, furniture, clothing, dry goods, notions, or hardware.

(5) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers, and dry cleaning outlets only, excluding processing facilities.

(6) Restaurants and taverns where patrons are served only while seated within the building occupied by such establishment. An outdoor cafe, when accessory to a permitted restaurant or tavern, may be permitted as a Conditional Use. Nothing in this section shall be construed to prohibit an establishment that has a carry-out service, ice cream parlor, bakery or similar use where patrons may leave the establishment before consuming the food purchased.

(7) Breweries.

(8) Carry-out food establishments, without drive-through facilities.

(9) Office of an executive, administrative, or professional nature.

(10) Medical and dental office uses.

(11) Banks, with drive-in facilities permitted when said drive-in facilities are incidental to the principal function.

(12) Offices and showrooms of plumbers, electrician, decorators, or similar trades, in connection with which not more than fifty (50) percent of the floor area of the building or part of the building occupied by said establishment is used for making, assembling, remodeling, repairing, altering, finishing, or refinishing its products or merchandise; and provided that the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices, or display. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.

(13) Health and physical fitness centers including exercise gyms, workout centers, dance and gymnastic studios, yoga, martial arts and other forms of exercise and physical conditioning.

(14) Commercial recreational facilities such as swim schools.

(15) Veterinary hospitals, excluding kennels.

(16) Places of assembly such as theater, dance hall, assembly halls or similar facilities.

(17) Other uses which are similar to the above and subject to the following restrictions:

a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from premises where produced.

b. All business, servicing, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

c. Outdoor storage of commodities shall be expressly prohibited.

SECTION 1102.E. Permitted Accessory Use

(1) Any use or building customarily incidental to a permitted principal use.

SECTION 1102.E. Conditional Uses

(1) Any use or building customarily incidental to a permitted principal use.

(2) Outdoor cafe, when incidental to a permitted restaurant or tavern, where such outdoor cafe will not occupy any portion of a public right-of-way. A proposal for an outdoor cafe that includes the use of any part of a public right-of-way must be accomplished by a draft license agreement, utilizing the City Council's standard license agreement format. A copy of the format for the standard license agreement may be obtained with the Conditional Use application. After Planning Commission approval of Conditional Use, the proposed license agreement will be forwarded to the City Council for their consideration. Nothing in this section shall be construed to require a license agreement for an establishment with a carry-out service, ice cream parlor, or similar use where patrons may leave the establishment before consuming the food purchased, unless said establishment chooses to operate an outdoor cafe and seeks approval as set forth above.

(3) Parking for an outdoor cafe shall be determined by the Planning Commission based upon the size of the outdoor dining area in relation to the permanent seating in the restaurant, as follows:

a. Outdoor dining areas that are strictly on a "weather permitting basis" may be approved without additional parking if there is seating for 30 or fewer patrons,

b. Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures to extend the season and/or to avoid inclement weather conditions, such as rain, may be required to provide additional parking.

c. In determining whether a restaurant must provide additional parking for its outdoor café, the Planning Commission will use the following guidelines:

1. If the outdoor seating is 25% or less of the seating capacity indoors, no additional parking is necessary.

2. If the outdoor seating is 26% - 50% of the seating capacity indoors, the restaurant may be required to provide up to 25% additional parking beyond the parking required for the indoor space.

3. If the outdoor seating is over 50% of the seating capacity indoors, the restaurant may be required to provide up to 50% additional parking beyond the parking required for the indoor space.

(4) Public utilities and facilities.

(5) Funeral homes.

(6) Senior housing facilities such as convalescent homes, assisted living and independent living facilities.

(7) Hotels.

(8) Parking garages and decks.

SECTION 1103.E. Development Standards.

The required minimum useable floor area, minimum required setback dimensions, maximum building height, minimum area, and lot size for the Mixed Use-1 District shall be as set forth in this section.

(1) Front Yard. Structures shall be built at front lot line with no minimum front yard setback; However, the Planning Commission shall have the discretion to modify the setback requirement as part of site plan review and approval pursuant to Article 27 of the Zoning Ordinance. Factors taken into consideration for such modification shall include but not be limited to predominant building line established along the block face between the two closest intersecting streets, creation of plazas or other public amenities into the area of the proposed setback.

(2) Side Yard, corner lot. For a corner lot abutting a side street, a minimum setback of 10 feet shall be maintained.

(3) Rear Yard. There is no minimum rear yard setback requirement.

(4) Lot Coverage. Maximum lot coverage shall not exceed 75%.

(5) Building Height. Due to the existing grade allowing for higher density of development on the parcels located within this district, minimum building height shall be 3 stories. To ensure optimal use of land and prevent the construction of single and two-story structures which would allow for roof-tops and mechanical equipment to be visible, the minimum building height shall be maintained. Maximum height of the principal building shall not exceed 5 stories or 60 feet and shall be determined through application of the skyline test. Buildings taller than that can be approved by Planning Commission subject to demonstration with detailed diagrams and simulated drawings that proposed building will not be visible from Main Street. Buildings not meeting the skyline test may not be permitted to exceed the height recommendation even through the special projects approval process.

(6) Buildings accessory to a principal permitted or conditional land use, such as a clubhouse etc., may be less than the minimum height for the district, subject to review and approval of the site plan by the Planning Commission.

(7) Architectural design standards shall conform to guidelines established in Section 2118.

Parking. Parking shall be accommodated on-site and shall be located pre-dominantly in the rear yard, screened with landscaping and other decorative elements. Use of integrated parking decks to accommodate the parking is encouraged.2

ARTICLE 12. P-1 VEHICULAR PARKING DISTRICT

Sec. 1200. Intent.

(a) This district is intended to accommodate vehicular off-street parking lots, publicly or privately owned, to serve nearby uses that are unable to provide adequate parking on the premises. The zoning of certain areas near the CBD District for P-1, Parking District, complements the CBD District intent of an intensively developed, pedestrian oriented business district, by placement of parking around rather than within the CBD District.

Sec. 1201. Permitted principal uses.

[The following principal uses shall be allowed in the P-1, Vehicular Parking District:]

(1) Shelter for attendant, not to exceed 15 feet in height, and accessory gates, meters, and signs in accordance with article 24.

Sec. 1202. ~~Special exception~~ Conditional uses.

(a) See section 2108, regarding public utilities and facilities.

ARTICLE 13. B-1, GENERAL BUSINESS DISTRICT

Sec. 1300. Intent.

(a) The B-1 District is intended to accommodate certain generally recognized business uses and buildings which may or may not be allowed in the CBD District. All B-1 business uses are required to be conducted within completely enclosed buildings, and shall not include uses that typically have the need for overnight parking facilities. The B-1 zones are set aside for more intensive business uses but intended to exclude those not limited to: automotive related service and repair including muffler shops, tire stores, quick lubes, auto body repair, engine rebuilding, brake shops, automotive stereo and telephone installation, and similar automotive related activities.

Sec. 1301. Permitted principal uses.

[The following principal uses shall be allowed in the B-1, General Business District:]

(1) Same as CBD District, subject to the regulations of this district.

(2) Showroom for sales of new automobiles and other vehicles, and ancillary service garage.

(3) Funeral home.

(4) Private club, lodge hall.

(5) Offices, clinics.

(6) Public utility exchange, transformer station and sub-station, pump station, excluding storage yards.

(7) Laundry and dry cleaning establishments primarily for retail patronage.

(8) Pool rooms, bowling alleys, and other public recreation halls licensed under chapter 6 of the City Code; including any establishment operating any mechanical amusement devises, are prohibited in all other districts; provided, however, that mechanical amusement devices are permitted as an accessory use only in the B-1, B-2, and CBD Districts under the conditions set forth in this ordinance for those districts under [section 1302,] permitted accessory uses.

(9) Retail, office, or service uses which are similar to the permitted principal uses.

Sec. 1302. Permitted accessory uses.

[The following accessory uses shall be allowed in the B-1, General Business District:]

(1) Accessory structures and uses customarily incidental to a permitted principal use.

(2) Mechanical amusement devices, not exceeding three per establishment, and:

a. Licensed under chapter 6 of the City Code;

b. Only in a tavern or restaurant with a Class C liquor license.

Sec. 1303. ~~Special Exception~~ Conditional uses.

[The following ~~special exception~~ conditional uses shall be allowed in the B-1, General Business District:]

(1) Outdoor sales of secondhand automobiles, trucks, trailers, or other vehicles. No major repair or major refurbishment shall be permitted on the lot.

(2) Overnight lodging facilities subject to the following standards:

a. Each rental unit shall be no less than 250 square feet in floor area; and

b. Each unit shall have its own private bathroom facility.

(3) Drive-in restaurant or open-front store, subject to the following standards:

a. Uses with a drive-up or pick-up window shall provide not less than six off-street waiting spaces for each such window. The site plan shall clearly demonstrate that the waiting spaces will not interfere with pedestrian and vehicular circulation on-site nor shall they block any off-street parking spaces or impede access by emergency vehicles.

b. The order station shall be located at least 50 feet from the boundary of an adjoining residential district. The order station loudspeaker shall face away from the residential district.

c. Twenty-four-hour operation of drive-thru facilities and open-front stores shall be prohibited. The planning commission shall prescribe closing hours for the drive-thru window where protection of adjoining residences from late night noise and lighting is necessary.

d. All outdoor lighting shall be designed to provide adequate safety on-site without causing late night glare or illumination on adjoining properties.

e. Dumpsters shall not be located immediately adjoining a residential district. The enclosure shall provide a hose bib and a drain connected to the sanitary sewer. The trash container shall be emptied daily (Monday through Friday) and hosed out with fresh water when necessary to keep odors to a minimum.

f. The site plan shall demonstrate to the satisfaction of the planning commission, that the layout and design proposed will have no adverse impacts on adjoining properties from such things as traffic, lighting, noise, odors, congregations of persons, and the like.

(4) Gasoline auto service stations for sale of gasoline, oil, minor accessories and minor repairs, but not including body repair, engine rebuilding, rust-proofing, and similar activities, may be permitted in the B-1 district, subject to the following:

a. All repairs shall occur within a completely enclosed building.

b. No vehicles awaiting repair shall remain on-site for more than 72 hours.

c. All parking areas shall be paved and screened from public view by a minimum four-foot-six-inch high masonry wall of face brick. In place of the masonry wall, an alternative method of screening may be used, subject to approval by the planning commission upon a finding that it is more appropriate for the particular site and its neighbors.

d. All trash storage areas shall be screened from view by a six foot high enclosure approved by the planning commission. Old parts such as tires, mufflers, pipes, and the like, shall be kept inside the enclosure and shall not be permitted to accumulate for periods longer than one week unless stored within the building.

e. Management plans shall be submitted for the collection, storage, and recycling or proper disposal of all used or waste automotive fluids resulting from repair or service operations.

(5) See section 2108 on public utilities and facilities.

(6) Dance halls, subject to the licensing requirements of chapter 6 of the City Code and the following special requirements:

a. The site plan shows a proper relationship exists between the proposed use and adjoining uses such that dance hall customers will not impede access to any nearby business and/or residence.

b. Adequate consideration is given to emergency exit from the building.

c. A proper relationship exists between pedestrian and vehicular circulation on-site such that points of pedestrian/vehicular conflict are minimized.

d. The density of such uses shall be limited by maintaining a minimum spacing of 2,000 feet between any two dance halls, not less than 1,000 feet from an arcade, and not less than 500 feet from any residential zoning district.

(7) Outdoor, dining, when incidental to a permitted restaurant or tavern, and subject to section 2121, outdoor dining standards.

Parking for an outdoor cafe shall be determined by the planning commission based upon the size of the outdoor dining area in relation to the permanent seating in the restaurant, as follows:

a. Outdoor dining areas that are strictly on a "weather permitting basis" may be approved without additional parking if there is seating for 30 or less patrons.

b. Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures to extend the season and/or to avoid inclement weather conditions, such as rain, may be required to provide additional parking.

c. In determining whether a restaurant must provide additional parking for its outdoor cafe, the planning commission will use the following guidelines:

1. If the outdoor seating is 25 percent or less of the seating capacity indoors, no additional parking is necessary.

2. If the outdoor seating is 26 to 50 percent of the seating capacity indoors, the restaurant may be required to provide up to 125 percent of the parking required for the indoor space.

3. If the outdoor seating is over 50 percent of the seating capacity indoors, the restaurant may be required to provide up to 150 percent of the parking required for the indoor space.

(8) See section 2111 on upper story apartments.

(9) Bus passenger stations may be permitted in the B-1 districts only, subject to the following standards:

a. There shall be no storage, overnight parking, or maintenance of buses on-site.

b. Adequate parking shall be provided for employees and customers, to the satisfaction of the planning commission.

c. Such other requirements which, in the opinion of the planning commission, are necessary to [ensure] compatibility of the use with surrounding uses and the intent of the B-1 district.

(10) Bed and breakfast homes, subject to section 2114.

(11) Short-term rental in accordance with the Rochester Rental Property Ordinance - Chapter 12 of the Rochester City Code and only to the extent residential uses are otherwise permitted.

(Ord. No. 2009-13, 5-11-2009; Ord. No. 2009-22, pt. 3, 11-9-2009; Ord. No. 2024-02, § 2, 7-8-2024)

ARTICLE 14. O-1, LIMITED OFFICE DISTRICT

Sec. 1400. Intent.

(a) This district is intended for areas which are deemed appropriate for medical and service office uses, in addition to other general and professional office uses, while requiring standards intended to minimize adverse environmental impact upon adjoining or nearby residential districts and uses. Other regulations of this ordinance are intended to supplement the district regulations, including, but not limited to: site plan approval; off-street parking; screen walls; signs. This district is intended for sites that do not generally abut

residential districts so that the more intensive uses will not have an adverse impact on the city's neighborhoods.

Sec. 1401. Permitted principal uses.

[The following principal uses shall be allowed in the O-1, Limited Office District:]

(1) Offices for executive, administrative, or business operations.

(2) Professional offices of an architect, engineer, attorney, public accountant, or similar profession.

(3) Medical and dental offices and outpatient clinics, but not including facilities for a veterinarian or any facility with beds for overnight accommodations.

(4) Service office uses, such as, but not limited to, real estate, branch bank, savings and loan, credit union, mortgage or loan company office, utility company office, and similar uses.

(5) Office uses which, in the opinion of the planning commission, are similar to the above permitted principal uses.

(6) One-family detached dwellings subject to the regulations of the R-1 District.

(7) Two-family dwellings subject to the regulations of the RT District.

Sec. 1402. Required conditions for principal uses.

The following are prohibited:

(1) Outdoor storage of goods or materials;

(2) Warehousing or indoor storage of goods or materials beyond that normally incidental to the permitted principal uses;

(3) Display of goods or merchandise which is visible from the exterior of the building;

(4) Sale of goods or merchandise except where strictly incidental and accessory to the permitted principal use; parking decks and/or parking structures.

Sec. 1403. Permitted accessory uses.

[The following accessory uses shall be allowed in the O-1, Limited Office District:]

(1) Any use customarily incidental to a permitted principal use.

(2) Off-street parking of employee and customer private motor vehicles shall not be allowed between the principal building and all front street lot lines, which areas shall be designed, landscaped and properly maintained with appropriate plant materials according to an approved landscape plan.

Sec. 1404. ~~Special exception~~ Conditional uses.

(a) The following ~~special exception~~conditional uses may be permitted by the planning commission after a finding that the use is appropriate at the intended location; its design and arrangement will be compatible with nearby residential uses; and the impact of the proposed use will be no greater than that of the principal permitted uses in the O-1 Districts.

(1) Churches and other houses of worship.

(2) Funeral home.

(3) Meeting hall or lodge hall.

(4) Indoor racquet sports and fitness centers and clubs.

(5) Bed and breakfast homes, subject to section 2114.

(6) Upper story apartments, subject to section 2111.

(7) Short-term rental in accordance with the Rochester Rental Property Ordinance - Chapter 12 of the Rochester City Code and only to the extent residential uses are otherwise permitted.

(b) See the schedule of district regulations for setback, area, bulk, height and placement regulations (article 20).

(Ord. No. 2024-02, § 3, 7-8-2024)

ARTICLE 15. O-2, RESTRICTED OFFICE DISTRICT

Sec. 1500. Intent.

(a) This district is intended to accommodate general and professional offices uses which generate low-intensity vehicular traffic patterns, primarily related to the office employees. The district is not suitable for office uses which generate large volumes of customer traffic in addition to the normal employee traffic. While O-2 districts are generally located on major thoroughfares, they are usually adjacent or near to residential districts. In addition to the regulations of this district, other regulations of this ordinance are intended to control the effect of uses in the O-2 districts upon nearby residential districts and uses. These other regulations include, but are not limited to: site plan approval; off-street parking; screen walls; and signs.

Sec. 1501. Permitted principal uses.

[The following principal uses shall be allowed in the O-2, Restricted Office District:]

(1) Office for executive, administrative, or business operations.

(2) Professional offices of an architect, engineer, attorney, public accountant, or similar profession.

(3) Office uses which, in the opinion of the planning commission, are similar to the above permitted principal uses.

(4) One-family detached dwellings subject to the regulations of the R-1 District.

(5) Two-family dwellings subject to the regulations of the RT District.

Sec. 1502. Required conditions for principal uses.

(a) The following are prohibited: outdoor storage of goods or materials, warehousing or indoor storage of goods or materials beyond that normally incidental to the permitted principal uses; display of goods or merchandise which is visible from the exterior of the building; sale of goods or merchandise except where strictly incidental and accessory to the permitted principal use; parking decks and/or parking structures.

Sec. 1503. Permitted accessory uses.

[The following accessory uses shall be allowed in the O-2, Restricted Office District:]

(1) Any use customarily incidental to a permitted principal use.

(2) Off-street parking of employee and customer private motor vehicles shall not be allowed between the principal building and all front street lot lines, which areas shall be designed, landscaped and properly maintained with appropriate plant materials according to an approved landscape plan.

Sec. 1504. ~~Special exception~~Conditional uses.

(a) The following ~~special exception~~conditional uses may be permitted by the planning commission after a finding that the use is appropriate at the intended location; its design and arrangement will be compatible with

nearby residential uses; and the impact of the proposed use will be no greater than that of the principal permitted uses in the O-2 Districts.

(1) Churches and other houses of worship.

(2) Branch office of a bank, savings and loan, credit union, or similar financial services institution.

(3) Uses, which, in the opinion of the planning commission, are similar to the above ~~special exception~~conditional uses.

(4) Bed and breakfast homes, subject to section 2114.

(5) Upper story apartments, subject to section 2111.

(6) Short-term rental in accordance with the Rochester Rental Property Ordinance - Chapter 12 of the Rochester City Code and only to the extent residential uses are otherwise permitted.

(b) See the schedule [of] district regulations for setback, area, bulk, height and placement regulations (article 20).

(Ord. No. 2024-02, § 4, 7-8-2024)

ARTICLE 16. RP, RESEARCH PARK DISTRICT

~~Sec. 1600. Intent.~~

~~(a) This district is intended to accommodate a campus of research oriented activities and to exclude therefrom incongruous and disruptive uses.~~

~~Sec. 1601. Permitted principal uses.~~

~~[The following principal uses shall be allowed in the RP, Research Park District:]~~

~~(1) Research, testing, development, manufacturing, packaging, and warehousing of pharmaceutical - prescription and nonprescription, veterinary, diagnostics, hospital and biological products and related dispensing containers, scientific instruments, medical devices and other uses and activities related thereto, including raising and maintenance of animals.~~

~~(2) Technical and occupational training schools and institutions of higher learning.~~

~~(3) Offices; banks, credit unions, savings and loan associations, including drive-in facilities related thereto; funeral home, meeting hall, house of worship, clinics, hospitals, veterinary hospitals, public or non-profit recreation uses such as parks, playgrounds, golf courses, athletic fields, swimming pools, and community centers.~~

~~(4) Municipal buildings and uses owned by the City of Rochester.~~

~~Sec. 1602. Permitted accessory uses.~~

~~[The following accessory uses shall be allowed in the RP, Research Park District:]~~

~~(1) Accessory structures and uses customarily incidental to a permitted principal use.~~

~~Sec. 1603. Conditional uses.~~

~~[The following Conditional uses shall be allowed in the RP, Research Park District:]~~

~~(1) Commercial recreation facilities such as tennis club or racquetball club.~~

~~(2) Radio and television studios and associated transmitting towers and facilities; microwave towers.~~

~~(3) See section 2108 on public utilities and facilities.~~

~~(4) Oil and gas wells in accordance with the criteria set forth in section 2130.~~

~~(Ord. No. 2015-07, 4-13-2015)~~

~~ARTICLE 16. RTECH - RESEARCH TECHNOLOGY DISTRICT~~

Sec. 1600. Intent.

(a) The~~is~~ R~~TECH~~P district is intended to accommodate uses such as research, testing, manufacturing, packaging or technologically related activities which are a component of the overall business activities. These uses are envisioned to be located and designed as either a comprehensive campus setting or smaller in scale on an individual parcel. The district is spread out over different areas in the City which include existing large-scale research and manufacturing facilities and also areas abutting the Clinton River. The district envisions developments that take advantage of the unique natural settings they are located in or that will allow for non-residential uses developed in harmony with preservation and enhancement of natural features.

Sec. 1601. Permitted principal uses.

(1) Research, testing, product development, manufacturing, packaging, and warehousing of pharmaceutical - prescription and nonprescription where warehousing is supplemental to a principal use; veterinary, diagnostics, hospital and biological products and related dispensing containers; scientific instruments, medical devices and other uses and activities related thereto, including raising and maintenance of animals.

(2) Technical and occupational training schools and institutions of higher learning.

(3) Offices; banks, credit unions, savings and loan associations, not including drive-in facilities~~,~~ clinics, hospitals, veterinary hospitals, public or non-profit recreation uses such as parks, playgrounds, golf courses, athletic fields, swimming pools, and community centers.

(4) Municipal buildings and uses owned by the City of Rochester.

(5) Technology-oriented companies,- offices and other computing related centers.

(6) Offices of manufacturing agents, sales representatives, and others requiring display areas and/or a limited warehousing area supplemental to the principal use.

(7) Printing shops and other establishments which complete manufacture of a finished product and where all activities are completely contained within a fully enclosed structure.

Sec. 1602. - Permitted accessory uses.

(1) Accessory structures and uses customarily incidental to a permitted principal use.

Sec. 1603. Conditional uses.

(1) Commercial recreation facilities such as tennis club or racquetball club.

(2) Radio and television studios and associated transmitting towers and facilities; microwave towers.

(3) See section 2108 on public utilities and facilities.

(4) Oil and gas wells in accordance with the criteria set forth in section 2130.

(5) Banks, credit unions, or savings and loan associations which include drive-in facilities related thereto;

(6) Funeral home, meeting hall, house of worship and other places of assembly;

(7) A business establishment permissible in the B-1 General District found to be of significant convenience to the employees and firms in the R~~TECH~~P Research Technology District for example, restaurant, filling station, or credit union;

(8) Other uses deemed similar to the uses permissible in the district, subject to Planning Commission determination on such suitability of such uses to the intent of the district.

Sec. 1604. Development standards.

The required minimum useable floor area, minimum required setback dimensions, maximum building height, minimum area, and lot size for the R~~TECH~~P Research ~~Technology~~Park District shall be as set forth in this section.

(1) *Lot Area.* Minimum required lot area shall be 40,000 square feet.

(2) *Lot Width.* Minimum required lot width shall be 200 feet.

(3) There is no maximum building coverage in the R~~TECH~~P district.

(4) *Building height.* Maximum height of buildings shall not exceed 45 feet or four stories for properties with a lot line abutting the South Street right-of-way. Maximum height of buildings for all other lots zoned R~~TECH~~P shall not exceed 30 feet or two and one-half (2 ½) stories.

(5) *Front yard.* Buildings shall be setback at a minimum of 50 feet from the front lot line.

(6) *Side yard.* Buildings shall be setback a minimum of 20 feet from any side lot line. The minimum required side yard setback for a corner lot with a side street shall be 50 feet.

(7) *Rear yard.* Minimum required setback shall be 20 feet.

(8) *Parking.* Parking may be accommodated on-site or integrated into the building design. Required greenbelts and landscaping as identified Article 28 shall be provided.

~~ARTICLE 17. I-1, INDUSTRIAL 1 DISTRICT~~

~~Sec. 1700. Intent.~~

~~(a) This district is intended to accommodate industrial, warehousing, and related operations which, by virtue of their operational characteristics, are compatible with nearby residential districts and within a densely populated community. Uses which would be adversely affected by location in an industrial area, such as residential dwellings, are prohibited.~~

~~Sec. 1701. Permitted principal uses.~~

~~Any of the following uses, when conducted wholly within a completely enclosed building or within a designated area enclosed on all sides by a six-foot fence or solid wall[, shall be allowed in the I-1, Industrial 1 District]. Said fence or wall shall be completely obscuring on those sides abutting or adjacent to districts zoned for residential use.~~

~~(1) Warehouse, storage and transfer, and wholesale establishments, and trucking facilities. Storage facilities for building materials, sand, gravel, stone, lumber, contractor's equipment and supplies.~~

~~(2) Public utility buildings and yards, electric transformer stations and substations, and gas regulator stations. Water supply and sewage disposal plants. Water and gas tank holders. Railroad transfer and storage tanks. Heating and electrical power generating plants, and all necessary uses. Railroad rights-of-way and related uses.~~

(3) The manufacture, compounding, processing, packaging, or treatment of such products as, but not limited to: bakery goods, candy, cosmetics, pharmaceutical, toiletries, food products, hardware and cutlery; tools, die, gauge, and machine shops.

(4) The manufacture, compounding, assembling, or treatment of articles or merchandise from previously prepared materials, such as, but not limited to: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones. Sheet metal (excluding any operation involving metal plating, buffing, polishing and or stamping), shell, textiles, tobacco, wax, wire, wood (excluding saw and planing mills), and yarns.

(5) The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.

(6) Manufacture of musical instruments, toys, novelties, metal or rubber stamps, or other small molded rubber products.

(7) Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs.

(8) Laboratories, either experimental, film or testing.

(9) Manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves, and the like.

(10) Veterinary hospitals.

(11) Car wash, service garage, bump and paint shop, tire sales, muffler and brake shops, quick oil and lube centers, and similar operations.

Sec. 1702. Permitted accessory uses.

[The following accessory uses shall be allowed in the I-1, Industrial 1 District:]

(1) Accessory buildings and uses customarily incidental to any of the above permitted uses.

Sec. 1703. Conditional uses.

[The following Conditional uses shall be allowed in the I-1, Industrial 1 District:]

(1) A business establishment permissible in the B-1 General District found to be of significant convenience to the employees and firms in the Industrial 1 District: for example, restaurant, filling station, or credit union.

(2) An industrial use similar in operational and performance characteristics to a permitted principal use in this district.

(3) Lumber and planing mill, metal plating, buffing and polishing or stamping, and similar uses.

(4) See section 2108 on public utilities and facilities.

(5) Outdoor commercial recreation uses, such as: golf driving ranges, sports fields, skate parks, swimming facilities, canoe liveries and the like; and indoor commercial recreation uses that are typically housed in a large structure, such as: indoor soccer, golf domes, skate parks, ice skating arenas, swimming facilities and the like, may be permitted subject to the following standards:

a. *Site requirements.*

1. Off-street parking shall be provided in the ratio of one space per four users at capacity or one space per four occupants based on maximum occupancy, as determined by the fire marshal. The planning commission may approve a 25 percent increase or decrease in this

~~requirement based on a finding regarding compatibility of the use with its immediately surrounding neighborhood.~~

~~2. All parking areas shall be screened from view of an adjoining residential district or use by either a greenbelt, obscuring fence, or a masonry wall, whichever is determined by the planning commission to be the most appropriate and effective. All parking areas shall be maintained so as not to become a nuisance to adjoining properties.~~

~~3. Review of the proposed site plan must demonstrate that a proper relationship exists between all proposed service roads, driveways, parking and drop-off areas to encourage pedestrian and vehicular traffic safety. The site plan shall demonstrate that there is adequate pick-up and drop-off space for facilities whose primary users are children that will likely be dropped off by a parent or guardian.~~

~~b. *Yard and placement requirements.*~~

~~1. All development features including the principal building shall be designed and arranged to minimize the possibility of any adverse effect upon adjacent property.~~

~~2. No outdoor activity shall take place within 30 feet of the perimeter of the designated recreational area. All such activities shall be adequately screened from an abutting residential district or use by means of protective wall or greenbelt as described in article 28 of this ordinance.~~

~~3. Related accessory commercial uses may be permitted in conjunction with a commercial recreation use when it is clearly incidental to the main recreational character of the use and such related accessory uses shall not include the sale, servicing, or repair of any vehicles or equipment used on the site except that owned by the proprietor.~~

~~4. Permitted accessory uses, which are generally of a commercial nature, shall be housed in a single building. Minor accessory uses, which are strictly related to the operation of the recreation use itself, may be located in a separate building such as a maintenance garage.~~

~~c. *Other requirements.*~~

~~1. Whenever an outdoor swimming pool is to be provided, said pool shall be provided with a protective fence six feet in height, and entry shall be by means of a controlled gate or turnstile.~~

~~2. Approval shall be for a specific designated use or uses such as soccer, swimming, skating, rollerblading or the like, and approval under this provision shall be subject to approval of the uses and site plan. The additions of other special approval uses must again be approved through the submission of an amended site plan.~~

~~(6) Oil and gas wells in accordance with the criteria set forth in section 2130.~~

~~(Ord. No. 2004-16, 12-20-2004; Ord. No. 2015-07, 4-1~~

ARTICLE 17. LI - LIGHT INDUSTRIAL DISTRICT

Sec. 1700. Intent.

(a) The City has a limited number of industrial uses due to the limited amount of land and size of parcels available to reasonably accommodate such uses. Light industrial uses are typically located on the southeast side of the City. The area is characterized by assorted industrial and high intensity commercial uses. The area is envisioned as the only industrial district within the City. This district is intended to accommodate industrial, warehousing, and related operations which, by virtue of their operational characteristics, are reasonably compatible with nearby residential districts and within a densely populated

community. The district is also intended for heavy commercial uses which are typically characterized by outdoor storage or garage components which may occupy an area larger than the customer component. Uses which would be adversely affected by location in an industrial area, such as residential dwellings, are prohibited.

Sec. 1701. Permitted principal uses.

Any of the following uses, when conducted wholly within a completely enclosed building or within a designated area enclosed on all sides by a six-foot fence or solid wall shall be allowed in the LI, Light Industrial District. Said fence or wall shall be completely obscuring on those sides abutting or adjacent to districts zoned for residential use.

(1) Warehouse, storage and transfer, and wholesale establishments, and trucking facilities. Storage facilities for building materials, sand, gravel, stone, lumber, contractor's equipment and supplies.

(2) Public utility buildings and yards, electric transformer stations and substations, and gas regulator stations. Water supply and sewage disposal plants, water and gas tank holders. Railroad transfer and storage tanks, railroad rights-of-way and related uses. Heating and electrical power generating plants, and all similar uses. .

(3) The manufacture, compounding, processing, packaging, or treatment of such products as, but not limited to: bakery goods, candy, cosmetics, pharmaceutical, toiletries, food products, hardware and cutlery; tools, die, gauge, and machine shops.

(4) The manufacture, compounding, assembling, or treatment of articles or merchandise from previously prepared materials, such as, but not limited to bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones. Sheet metal (excluding any operation involving metal plating, buffing, polishing and-or stamping), shell, textiles, tobacco, wax, wire, wood (excluding saw and planing mills), and yarns.

(5) The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.

(6) Manufacture of musical instruments, toys, novelties, metal or rubber stamps, or other small molded rubber products

(7) Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs

(8) Laboratories, either experimental, film or testing.

(9) Manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves, and the like.

(10) Veterinary hospitals.

(11) Car wash, service garage, bump and paint shop, tire sales, muffler and brake shops, quick oil and lube centers, and similar operations.

Sec. 1702. Permitted accessory uses.

(1) Accessory structures and uses customarily incidental to a permitted principal use.

Sec. 1703. Conditional uses.

(1) A business establishment permissible in the B-1 General District found to be of significant convenience to the employees and firms in the LI, Light Industrial District, for example, restaurant, filling station, or credit union.

(2) An industrial use similar in operational and performance characteristics to a permitted principal use in this district.

(3) Lumber and planning mill, metal plating, buffing and polishing or stamping, and similar uses.

(4) See section 2108 on public utilities and facilities.

(5) Indoor commercial recreation uses that are typically housed in a large structure, such as: indoor soccer, golf domes, skate parks, ice skating arenas, swimming facilities.

(6) Oil and gas wells in accordance with the criteria set forth in section 2130.

(7) Pet grooming, pet exercise and care facilities, subject to the following conditions:

a. All outdoor pet exercise areas must be fenced and screened with landscaping as deemed appropriate by the Planning Commission.

b. Pets shall be supervised when outdoors.

c. Use shall comply with City's noise ordinance.

d. No overnight accommodation shall be provided for animals.

e. Parking shall be provided in accordance with ITE standards for the use classification.

(8) Limited retail uses may be allowed, but only as an accessory use clearly incidental and subordinate to a permitted principal use on the property, and subject to the following:

a. The retail space is limited to 25% of the gross square footage of the building if a single tenant building, and not more than 25% of the gross square footage of each tenant's space in a multiple tenant building. In addition, the retail space shall not exceed 1500 sq ft of any building. The retail space limit is inclusive of all showroom, displays and sales areas.

b. No business shall operate retail use as a standalone or primary use, but only ancillary to the otherwise permitted principal use. The retail use must directly support or relate to the principal use. In the case of non-profits, the retail use may be used to generate funds to support the primary mission of the organization. For the purposes of this section, 'retail use' includes the on-site sale of goods or merchandise to the general public.

c. Limited retail use shall only be allowed under this Section for industrial-zoned properties located on South Street, and not in other industrial areas in the City.

d. Required off-street parking for the approved limited retail area shall be calculated at the same rate as the principal use for the business on the property. While additional parking spaces are not required at the retail use rate, there will be no grandfathering of additional spaces as a result of the approved limited retail uses.

e. Prior to any limited retail use being allowed, the parking areas must be brought into compliance with off-street parking requirements including, but not limited to, striping, condition, provision and designation of handicap spaces, and other accessibility requirements.

Sec. 1704. - Development standards.

The required minimum useable floor area, minimum required setback dimensions, maximum building height, minimum area, and lot size for the LI, Light Industrial District shall be as set forth in this section.

(1) *Lot Area.* Minimum required lot area shall be 10,000 square feet.

(2) *Lot Width.* Minimum required lot width shall be 80 feet.

(3) There is no maximum building coverage in the LI district.

(4) *Building height.* Maximum height of buildings shall not exceed 35 feet or three (3) stories.

(5) *Front yard.* Buildings shall be setback at a minimum of 25 feet from the front lot line.

(6) *Side yard.* Buildings shall be setback a minimum of 15 feet from any side lot line. The minimum required side yard setback for a corner lot with a side street shall be 25 feet.

(7) *Rear yard.* Minimum required setback shall be 40 feet.

~~(1)~~(8) *Parking.* Parking must be accommodated on-site and should be predominantly located within the side and rear yard.

~~ARTICLE 18. I-2, INDUSTRIAL 2 DISTRICT~~

~~Sec. 1800. Intent.~~

~~(a) This district is intended to accommodate industrial and related uses and operations which, by virtue of their performance characteristics, require locations more remote from residential areas than allowable in the I-1 District.~~

~~Sec. 1801. Permitted principal uses.~~

~~[The following principal uses shall be allowed in the I-2, Industrial 2 District:]~~

~~(1) Same as I-1 District.~~

~~(2) Junk yards, when entirely enclosed within a building or an eight-foot obscuring wall, when abutting a railroad right-of-way.~~

~~Sec. 1802. Permitted accessory uses.~~

~~[The following accessory uses shall be allowed in the I-2, Industrial 2 District:]~~

~~(1) Any use customarily incidental to a permitted principal use.~~

~~Sec. 1803. Conditional useConditional uses.~~

~~[The following conditional useConditional uses shall be allowed in the I-2, Industrial 2 District:]~~

~~(1) Any industrial, storage, or warehousing operation. Special event retail sales, sidewalk sales, etc., shall be permitted as an accessory use only, not to exceed two such events in a calendar year.~~

~~(2) See section 2108 on public utilities and facilities.~~

~~(3) Outdoor commercial recreation uses, such as: golf driving ranges, sports fields, skate parks, swimming facilities, canoe liveries and the like; and indoor commercial recreation uses that are typically housed in a large structure, such as: indoor soccer, golf domes, skate parks, ice skating arenas, swimming facilities and the like, may be permitted subject to the specific standards for like uses in the Industrial 1 District, as found in section 1703(5).~~

~~(4) Public or not-for-profit uses that may or may not include a retail component that involves sales of consumer goods as part of the overall use. Such sales shall involve monetary exchange, vouchers or other means of sales that shall distinguish it from general retail sales. Such use shall be subject to planning commission review for provision of adequate buffering, landscaping, screening, parking and circulation to mitigate any adverse impacts on abutting residentially zoned properties.~~

~~(5) Oil and gas wells in accordance with the criteria set forth in section 2130.~~

~~(Ord. No. 2004-17, 12-20-2004; Ord. No. 2014-12, 12-15-2014; Ord. No. 2015-07, 4-13-2015; Ord. No. 2015-11, 7-20-2015)~~

ARTICLE 19. RV, RIVER VALLEY DISTRICT AND POS, PARKS AND OPEN SPACE DISTRICT

Sec. 1900. River Valley District statement of purpose.

(a) All land lying within the floodplains of Paint Creek, Stony Creek, and the Clinton River is within the RV, River Valley District, and is subject to the regulations of this district, in addition to the regulations otherwise established for a district designated by the zoning map. Those floodplains are designated by the report [entitled] Flood Insurance Study, City of Rochester, Michigan, dated March, 1982, published by the Federal Emergency Management Agency, a copy of which shall be maintained on file for public inspection by the building inspector. The base flood level is defined as the 100-year flood. In establishing the precise location of a flood line on a particular lot, the building inspector shall consider survey data certified by a registered civil engineer or a registered land surveyor, and other pertinent data.

(Ord. No. 2010-02, § 1900, 1-11-2010)

Sec. 1901. River Valley District regulations.

(a) The following three areas as identified by the flood boundary and floodway map shall be subject to the following requirements in addition to those regulations established for the applicable zoning district and all applicable state and federal regulations.

Area	*Regulations*
Floodway	1, 2, 5
100-year flood	1, 2
500-year flood	2, 3, 4

(1) No building, mobile home, or trailer shall be erected or placed in the area.

(2) No existing building shall be enlarged, or improved at a cost over 50 percent of its present value, except in accordance with specifications of the building inspector to minimize flooding hazards insofar as practical and reasonable. At a minimum, these specifications shall comply with federal flood insurance regulations as cited in 24 CFR 60.3(d).

(3) No residential building shall be erected or placed unless the lowest floor level (including basement if any) is above the base flood level. Accessory buildings not intended for habitation, such as garages, are excluded from this regulation.

(4) No nonresidential building shall be erected unless the lowest floor (including basement, if any) is above the base flood level, or is floodproofed to above the base flood level. Accessory buildings not intended for habitation, such as storage buildings, are excluded from this regulation.

(5) None of the following are permitted except as approved by the city engineer so that the base level will not increase at any point in the city, taking into account the cumulative effect of all such increases since January 1, 1980: Structures, filling, dumping with any material.

(Ord. No. 2010-02, § 1901, 1-11-2010)

Sec. 1902. Parks and Open Space District statement of purpose.

(a) The purpose of the POS Parks and Open Space District is to identify and preserve city-owned parks, preserve land with valuable environmental qualities as open space, conserve natural and cultural areas and resources, to ensure the continued health, safety and welfare of the community, by providing locations for recreational

activities consistent with the city's adopted master plan and parks and recreation plan. The district recognizes and protects parks for recreational use and related facilities, as well as properties suitable for preservation as open space.

(b) The size, character and intensity of development of park, recreation and open space areas and the performance characteristics of recreation areas shall be commensurate with the capability of land and water areas to support the intended uses.

(Ord. No. 2010-02, § 1902, 1-11-2010)

Sec. 1903. Parks and Open Space District permitted principal uses.

The following [principal] uses [shall be] permitted in the POS District:

(1) Day-use parks, sports fields, playgrounds, public pools and similar active, outdoor recreation uses without overnight accommodations.

(2) Picnic areas, nature study areas, nature centers, hiking/biking trails, community centers and similar passive recreation uses.

(3) Educational facilities such as: zoological gardens, botanical gardens, bird sanctuaries, arboretums, and the like.

(4) Historical and cultural facilities and resources, museums, and similar uses.

(5) Wildlife preserves.

(6) Temporary or seasonal outdoor storage, permanent indoor storage, and public safety training uses of the City of Rochester, but excluding construction staging activities, equipment and uses.

(7) Other uses which, in the opinion of the planning commission after findings of fact, are similar to the above permitted principal uses and will be equally compatible with nearby uses and residential areas.

(Ord. No. 2010-02, § 1903, 1-11-2010)

Sec. 1904. Parks and Open Space District permitted accessory uses.

[The following accessory uses shall be allowed in the POS District:]

(1) Accessory buildings and uses customarily incidental to the principal permitted uses, when located on the same premises in conformance with section 2102.

(2) Signs in accordance with article 22. Signs proposed for a public park or use shall be subject to the standards in section 2209.

(Ord. No. 2010-02, § 1904, 1-11-2010)

Sec. 1905. Parks and Open Space District conditional uses.

The following uses may be permitted by the planning commission, subject to a public hearing being held to provide for comment from neighboring property owners and occupants.

(1) Wireless communication antennas (section 2106).

(2) Local utility structures (section 2108).

(Ord. No. 2010-02, § 1905, 1-11-2010)

ARTICLE 20. SETBACK, AREA, BULK, HEIGHT AND PLACEMENT REGULATION

Sec. 2000. Schedule of district regulations.

(a) The area, height, bulk, and placement requirements for principal and accessory uses shall be as set forth below and following this schedule:

District	*Maximum Percent of Lot Coverage by all Buildings*	*Minimum Yard Setback From Lot Lines (in feet)*				*Maximum Building Height*		*Minimum Lot Size*	
		Front Yard	*Side Yards*		*Rear Yard*				
			Least One	*Total of Two*		*In Feet*	*In Stories*	*Area (in Square Feet)*	*Width (in feet)*
R-1	30	25	5	15	35	25	2½	6,000	50
R-2	30	25	5	15	35	25	2½	7,200	60
R-3	30	25	5	15	35	25	2½	8,400	70
R-4	25	25	10	30	35	25	2½	9,600	80
R-5	25	25	10	30	35	25	2½	15,000	100
RT	30	25	5	15	35	35	2½	3,200	54
RM-1	30	~~40~~ 25	20 Street 25	40 Street 45	35	30	2½	1 BR: 2,250 2 BR: 3,000 3 BR: 3,750	50
~~RM-2 1 or 2 stories~~	~~30~~	~~40~~	~~40~~	~~30~~	~~40~~	~~25~~	~~2~~	~~1 BR: 3,500 2 BR: 4,500 3 BR: 6,000 4 BR: 8,000~~	~~--~~
~~More than 2 stories~~RM-2	60	~~50~~10 Min. 25 Max.	~~50~~ 15 Street 10 Min. Street 25 Max.	~~50~~30 Street 25 Street 40	~~50~~25	~~100~~80	~~8~~6	1 BR: ~~1,000~~2,500 2 BR: ~~2,000~~3,000 3 BR: ~~5,000~~3,500	50
O-1*	--	25	5	20	30	35	2½	___	___
O-2*	--	25	10	20	30	35	2½	___	___
CBD	--	[1]	10	35	3	35	___		
DE-1	See Section 1104.A								
DE-2	See Section 1104.B								
T	See Section 1104.C								
MU	See Section 1104.D								
MU-1	See Section 1104.E								
B-1	--	See following notes	10	35	3	___	___		

RP	--	50	20	40	50	50		40,000	200
RP	See following notes								
~~IND-1~~LI	--	25	15	40	20	50		10,000	80
~~IND-2~~	~~--~~	~~25~~	~~15~~	~~40~~	~~20~~	~~75~~		~~10,000~~	~~80~~

*Minimum setback from residential district: 30 feet in O-1, 20 feet in O-2.

**Except west side of Walnut Boulevard to the east right-of-way line of Pine Street, with an extension of said east right-of-way line of Pine Street, southerly from Second Street to First Street (properties currently zoned CBD, Central Business District). Reduced to 25 feet and two stories. See section 2010.

(Ord. No. 2005-08, 8-22-2005)

Sec. 2001. R-3, R-4.

(a) The minimum lot width indicated in the schedule may be further reduced to 65 feet in the R-3 District and to 70 feet in the R-4 District, provided that the average lot width of all the lots in the subdivision is 70 feet in the R-3 District and 80 feet in the R-4 District. This provision is only applicable where approved by the city as part of approving a preliminary plat that is consummated in a recorded final plat covering all the lots so averaged. See planned residential development provisions of article 25 regarding lot sizes.

Sec. 2002. RM-1, RM-2.

(a) In computing the bedroom (abbreviated BR) count of a dwelling unit, a "den," "library," or "family room" or similar extra room shall be counted as a bedroom.

(b) The minimum distance between buildings on the lot shall be subject to site plan approval; see article 27.

Sec. 2003. RM-2.

(a) No building of two stories or less shall contain more than 16 dwelling units.

(b) No part of a dwelling unit shall be below grade unless approved as part of the site plan by the city planning commission, their approval to be based on consideration of sloping topography affording unique design opportunities for amenities.

(c) ~~No building of two stories or less shall be closer than 40 feet to any perimeter lot line of the property unless a lesser setback is approved as part of the site plan by the city planning commission, their approval to be based on unique circumstances of topography, natural features, adjoining land use, or similar considerations.~~

(d) Any building of more than two stories shall be of fireproof construction, such as masonry and steel, reinforced concrete, or similar fireproof rated materials.

~~(e) Any building of more than two stories shall be of fireproof construction, such as masonry and steel, reinforced concrete, or similar fireproof rated materials.~~

Sec. 2004. CBD, B-1.

(a) No side yards are required along interior lot lines, provided all requirements of the building code have been met with regard to fire protection and separation, adequate light, and adequate ventilation.

(b) Mechanical equipment, such as heating/ventilation/air conditioning, for buildings in B-1 and CBD districts shall be provided with visual and acoustical screening by means of principal building features or components, such as roof structural members, parapet walls, and the like. These principal building features shall obscure

at least 75 percent of the height of the equipment being screened but not less than five feet. The use of wood, metal, or similar screen fences to obscure mechanical equipment shall not be permitted. The building wall or parapet wall for a structure with a flat roof may be permitted to a maximum height of 40 feet in order to provide the required screening for mechanical equipment. Buildings with a pitched roof may not increase building height.

Sec. 2005. B-1.

(a) The minimum front yard setback shall be 15 feet, and the minimum side yard setback shall be ten feet, provided however that the city planning commission may in its discretion as part of site plan review and approval pursuant to article 27 of this ordinance approve lesser or no front and/or side yard setbacks, taking into consideration subsections (d)(1) through (3) of this section.

(b) That portion of the front yard between the building and the front lot line shall not be used for vehicle parking and shall be mainly devoted to landscaped open space and pedestrian access.

(c) The established pattern of front setbacks on the same block and the same side of the street. The planning commission shall be guided by the intent that the required front yard setback should not result in poor visibility of the building from the street caused by the setbacks of existing buildings on adjoining lots. Similarly, the approved front yard setback for the subject building shall take into consideration the effect of the subject building on the visibility of adjoining buildings. In furtherance of this intent, the planning commission may, as the circumstances warrant, approve:

(1) Transitional setback as illustrated in Diagram A below;

(2) A plaza as illustrated in Diagram B below in the case where adjoining buildings have little or no front yard setback.

(d) B-1 setback examples.

B-1 SETBACK EXAMPLES

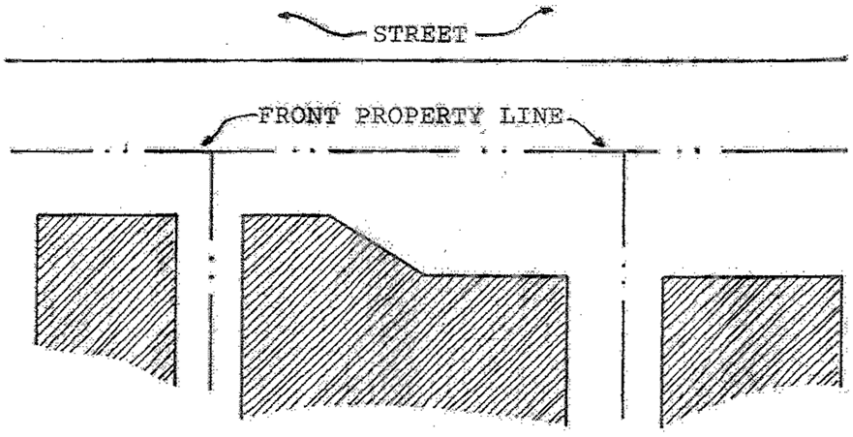


DIAGRAM A - TRANSITIONAL SETBACK

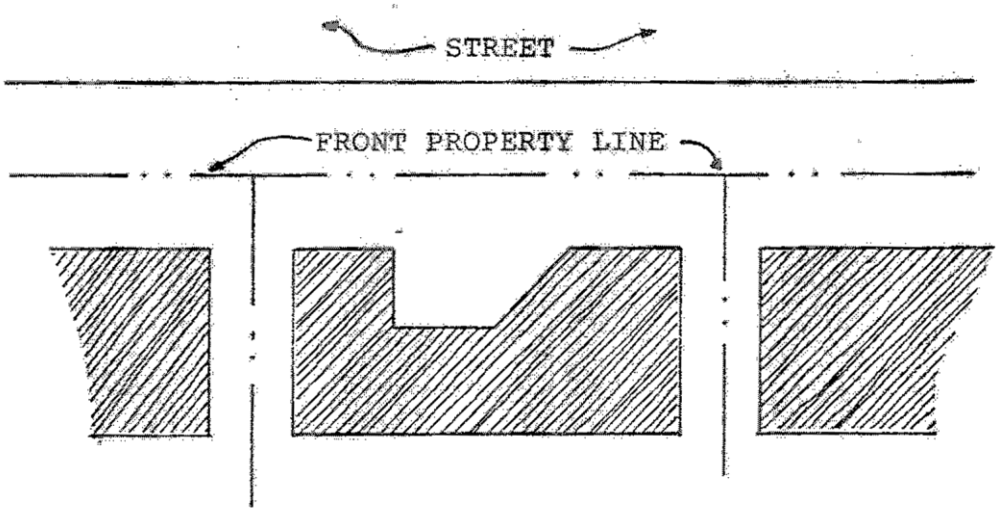


DIAGRAM B - PLAZA SETBACK

(1) In establishing the front yard setback for a building in close proximity to existing buildings, the planning commission shall be guided by the design principal that a transitional setback or plaza as described in subsections (c)(1) and (2) of this section may be more appropriate to and compatible with the established pattern of setbacks than would be a setback of the subject building abruptly different from setbacks of existing buildings.

(2) Provision for accessibility by service and other vehicles. The planning commission shall be guided by the intent of discouraging reliance upon public streets for loading and delivery activities, and encouraging such activities to be accommodated via service drives and alleys, with adequate truck loading space provided on the lot. On a small lot, the planning commission might accordingly find that the intent would be better served by reducing side yard requirements if the enhanced building site thereby facilitates provision of adequate truck loading at the rear of the building. Similarly, the reduction and consolidation of the number of driveways and parking areas might justify the reduction of side yards. Side yard reduction shall be consistent with fire fighting and other public safety considerations: narrow and deep side yards are generally undesirable.

(3) Adequacy of side yard setback in relation to windows and doors of the subject and adjoining buildings. The planning commission shall take into consideration the effect of side yards on daylight, ventilation, and egress in relation to windows and doors of the subject and adjoining buildings; distances between buildings of less than eight feet are generally not desirable and a better building relationship in some circumstances might be achieved by no side yard setback.

Sec. 2006. RP.

(a) No building shall be closer to a Residential District than four times the building's roof height elevation over the Residential District boundary average elevation, but not less than 50 feet. For example, if the Residential District boundary average elevation is 730, the ground elevation of the building is 710, and the building roof is 810, the building would be 80 feet above the Residential District boundary, and would therefore be required to be 320 feet from the Residential District. The average elevation of the Residential District boundary shall be determined by the city for the sector of the boundary faced by the building, plus 50 feet beyond, along the boundary.

(b) The maximum height of a building may be increased from 50 up to 125 feet provided that no building shall be closer to a property line of land under other ownership (excluding public right-of-way and railroad right-of-way) than the building's roof elevation over the average elevation of the property line, determined in the

same manner as in the previous paragraph; the building shall be set back from any Residential District boundary as set forth in the previous paragraph.

Sec. 2007. Minimum lot size.

(a) Any other provisions of this ordinance notwithstanding, the minimum lot size of any lot in any district not served by public water supply and public sanitary sewer shall be established by the city engineer based on engineering requirements for safe and adequate water supply and sewage disposal, but in any event not less than:

(1) RP District: 40,000 square feet lot area and 200 feet lot width.

(2) All other districts: 20,000 square feet lot area 100 feet lot width.

(b) The provisions of this section do not waive any provision of chapter 54 of the City Code, including section 54-236 thereof on discontinuance of a private sewage disposal system when a public sewer becomes available.

Sec. 2008. All districts.

(a) Screen walls shall be constructed in accordance with article 28 before a certificate of occupancy is issued for a nonresidential use.

Sec. 2009. Parking in all districts.

(a) The design, construction and operation of off-street parking shall be in accordance with article 24.

~~Sec. 2010. West Walnut transition zone.~~

~~(a) The West Walnut transition zone is intended to provide a buffer for the residential uses west of the downtown district. Uses within this zone must be respectful of the nearby residential neighborhood. Building height in this zone shall be limited to two stories on the west side of Walnut in order to provide an appropriate transition to the increased heights permitted on the east side of the street. This gradual transition is intended to prevent close-in single-family homes from feeling as if the downtown towers over them.~~

(Ord. No. 2005-08, 8-22-2005)

ARTICLE 21. SUPPLEMENTARY DISTRICT REGULATIONS

Sec. 2100. Visibility at intersections and corner clearance.

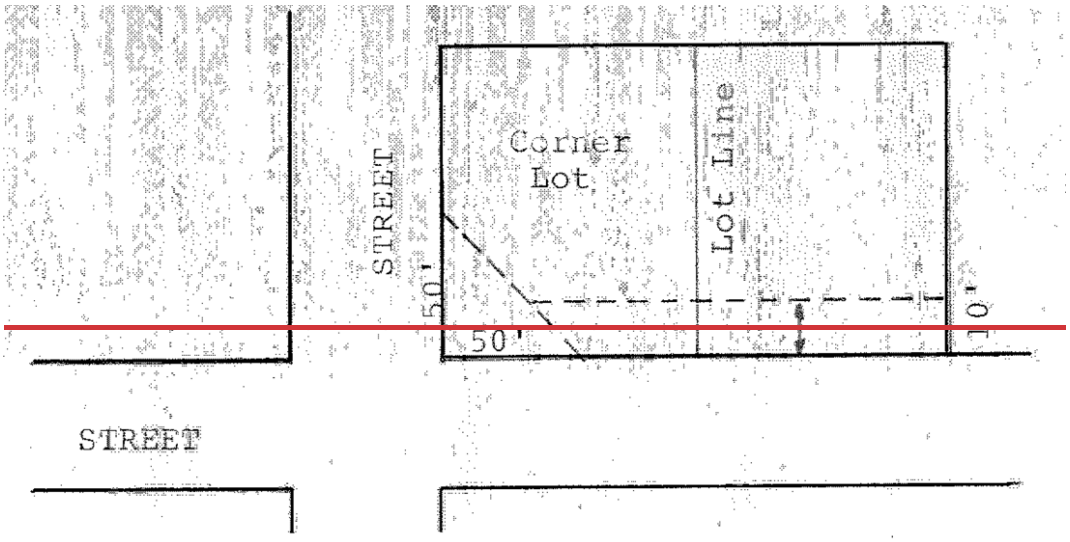
(a) On corner lots in all districts, nothing shall be erected, placed, or allowed to grow in such a manner that it impedes vision between a height of 30 inches and ten feet in an area bounded by the street lines of such corner lots and a line joining points along said street lines 25 feet from the point of intersection.

(b) Minimum sight distance for commercial, industrial, institutional, public road, and private road approaches onto city streets and county roads shall be in accordance with the American Association of State Highway and Transportation Officials' (AASHTO) standards for both vertical and horizontal alignment. Where AASHTO standards cannot be met, an alternative plan shall be developed in consultation with the city engineer and approved by the city council.

Unless otherwise specified by the city engineer, sight distance shall be measured 50 feet from the centerline of an existing city or county road. For intersection sight distance, the eye height shall be assumed to be 3.5 feet above road grade and the object height shall be 4.25 feet and shall be continuously visible within the specified limits.

Sec. 2101. Walls and hedges.

(a) In the front ten feet of any required front yard in a residential district, no wall shall be permitted which materially impedes vision across such yard above the height of 30 inches, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights of 30 inches and five feet.



Sec. 2102. Accessory buildings.

(a) *Location—Single-family residential.* A building which is accessory to a single-family dwelling and which is not attached thereto shall not be located:

(1) In the front yard or between the front building line of the principal building and the front lot line;

(2) In any required side yard;

(3) If on a corner lot, closer to the side street than the width of the side yard required for the principal building on such side street;

(4) Closer than three feet to any rear lot line;

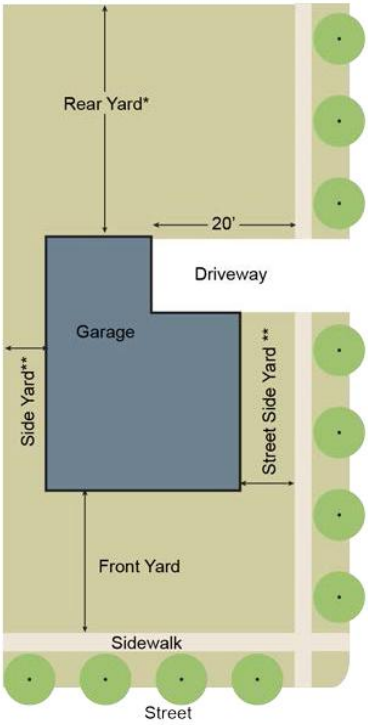
(5) So that there is less than 20 feet in length of driveway between a garage or carport entrance and the street right-of-way providing access thereto;

Figure 1:
Corner Lot - Detached Garage



* Rear Yard 3' min
** Side yard 5' min / 15' combined

Figure 2:
Corner Lot - Attached Garage



* Rear Yard 35' min
** Side yard 5' min / 15' combined

(6) In an R-4 or R-5 district:

a. Closer to a side lot line than is allowed for a principal building;

b. Closer than 20 feet to a principal building unless the accessory building has masonry walls, in which case it shall be located no closer than ten feet to a principal building.

Figure 3:
Corner Lot - Detached Garage

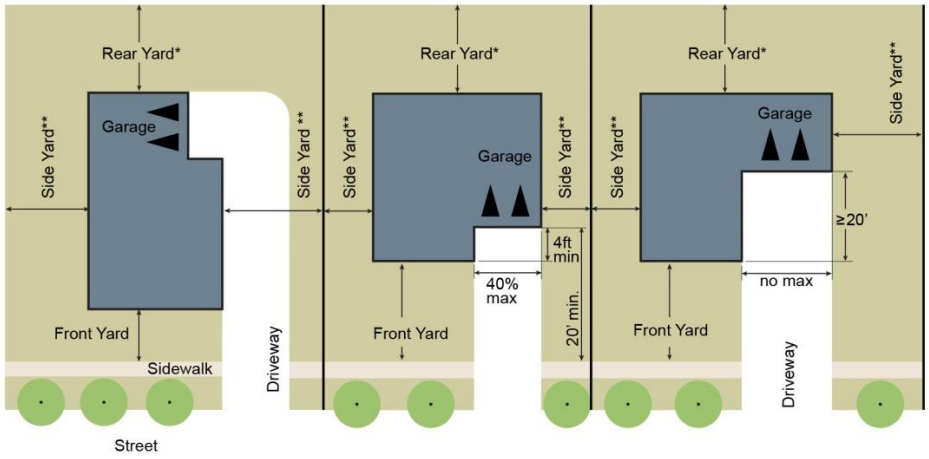


* Rear Yard 3' min
** Side yard 10' min / 30' combined

(7) All detached accessory structures, regardless of size, shall comply with detached accessory building setback requirements of this section. The following information and documents are required as the site plan submittal. The planning commission is authorized to reduce the information required in cases where it finds such information unnecessary or inappropriate for consideration of the particular application.

(b) *Same—Attached to dwelling.* A building which is accessory to a single-family dwelling and attached thereto (such as attached garage or greenhouse) shall for purposes of location and setbacks be considered part of the principal building. Front entry garage doors shall be set back a minimum of four feet from the front wall of the principal dwelling, and may not comprise more than 40 percent of the width of any building façade that faces a street. Front entry garages may occupy a wider width when placed at or more than 20 feet behind the front wall of the principal dwelling. Side entry garages shall not be permitted in the front yard of parcels located in the R-1 and R-2 single family residential districts. There shall be at least 20 feet length of driveway apron between a garage or carport entrance and the street right-of-way providing access thereto. A detached garage may be connected to the principal residence by means of a covered walkway, enclosed walkway, or enclosed breezeway provided the covered walkway, enclosed walkway, or enclosed breezeway complies with all setback requirements enumerated in subsection (a) of this section for the principal residence.

Figure 4:
Attached Garage



* Rear Yard 3' min
** Side yard varies

(c) *Same—Uses other than single-family residential.* The location of a building which is accessory to a principal building or use other than a single-family residential building (such as multifamily dwelling, commercial building, industrial building, or office building) shall be determined by the site plan which is approved by the city in accordance with the provisions of this ordinance.

(d) *Building height.* The maximum building height of an accessory building in a One-Family Residential District shall be 13 feet. However, for every additional 20 feet of rear and side yard setback, the height of the accessory building can be increased by two feet. In no instance shall the height exceed 24 feet.

(e) *Floor area/lot coverage.* In a One-Family Residential District the total coverage of all accessory buildings on a lot shall not exceed: ten percent of the lot's area; nor 25 percent of the rear yard; nor the ground coverage of the principal building. The total coverage by all accessory and principal buildings on a lot is set forth in the schedule of district regulations (article 20 of the zoning ordinance). Total lot coverage shall include the following:

(1) There shall be not more than two detached accessory structures on any single-family homesite. All detached accessory structures over 100 square feet shall be included in total lot coverage.

(2) Covered and/or enclosed walkways shall be included in total lot coverage.

(3) Raised patios having 50 percent of their perimeter in excess of 30 inches above the average grade, as determined by the building inspector, shall be included in total lot coverage.

(4) In-ground swimming pools with a walking surface in excess of 30 inches above grade for 50 percent or more of the combined perimeter shall be included in total lot coverage. Diving platforms are excepted.

(5) Above-ground swimming pools with a sidewalk height of five feet or more for 50 percent or more of their perimeter shall be included in total lot coverage.

(6) Any structure or area, including but not limited to a deck, porch, or patio with a permanent roof (regardless of size) attached to the principal residence shall be included in total lot coverage.

(f) *Other accessory use regulations.*

(1) No accessory building shall be constructed prior to the commencement of construction of its principal building.

(2) In a residential district, the following are prohibited: storage of merchandise, and sale, repair, or service of motor vehicles. The parking of not more than two commercial vehicles within a garage is allowed.

(3) Raised patios greater than 30 inches above the average grade shall not project into any required front or side yard and may project not more than 16 feet into a required rear yard.

(4) In-ground swimming pools greater than 30 inches above the average grade and/or attached to or serviced by a raised patio shall not project into any required front or side yard and may project not more than 16 feet into a required rear yard.

(5) Above-ground pools, regardless of height, attached to or serviced by a raised patio shall not project into any required front or side yard and may project not more than 16 feet into a required rear yard.

(6) Heating elements are permitted for accessory buildings provided they meet all applicable building codes and manufacturers' specifications. Except for "plug-in" electric heaters, heating elements and ventilation systems shall be approved by the city building official before and after installation. Wood burning stoves, fireplaces and other elements with non-contained, non-furnace flames are prohibited. However, nothing in this section shall be deemed to prohibit a properly contained U.L. listed furnace device. Before any heating elements are utilized in accessory buildings, smoke detectors shall be installed and approved by the city building inspector. The use of heating elements shall not be in violation of any city, Michigan, federal regulations or manufacturers' specifications in any manner including, but not limited to, regulations restricting odor, emissions and discharging of particulate matter, as those regulations may be changed from time to time.

(7) No accessory building shall be designed, built, or modified so as to create a separate, independent housekeeping establishment for occupancy (for example: containing independent cooking, bathroom, and sleeping facilities) nor shall such building be utilized as a habitable or tenantable living unit.

(g) *Average grade.* Average grade, as referenced within this section, shall be determined by the building inspector based upon measurement of the existing grades at the perimeter of the proposed structure, patio, or pool.

(Ord. No. 2004-11, 9-13-2004; Ord. No. 2014-04, 3-24-2014;Ord. No. 2015-17, 10-12-2015; Ord. No. 2017-06, pt. II, 6-12-2017; Ord. No. 2019-13, pt. I, 7-22-2019; Ord. No. 2023-01, § 1, 1-23-2023)

Sec. 2103. Swimming pool.

(a) For purposes of this ordinance, a "swimming pool" is any manmade pool, whether or not portable, having a depth of two feet or more at any point, and having a surface area of 250 square feet or more. A "private" swimming pool is one that is not open to the public and is not owned publicly. As an accessory use in a residential district, no swimming pool shall be located closer than ten feet to any side or rear lot line, or in a required front yard.

Sec. 2104. Erection of more than one principal structure on a lot.

(a) In a One-Family Residential District, there shall not be more than one residential dwelling on a recorded lot. In these districts, every residential dwelling shall be on a recorded lot, except that in the case of a farm of more than ten acres, there may be a tenant dwelling on the same recorded lot as the principal dwelling, provided that a lot is designated in the application for a zoning compliance permit and approved in accordance with article 29 of this ordinance.

Sec. 2105. Exceptions to height regulations.

(a) The height limitations contained in the schedule of district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

Sec. 2106. Radio, television, satellite dish and communications antennas and towers.

(a) No guy wires or other accessories associated with any antenna or tower shall cross, encroach, or otherwise project beyond any lot line or over any electric power lines.

(b) In a residential district, no antenna shall be located between the principal building and the front lot line. The maximum overall height for a ground-mounted antenna, including mounting hardware, shall be 15 feet. The maximum diameter for satellite dish antennas shall be three feet. Roof-mounted satellite dishes shall not exceed the height limit of the zoning district. Roof-mounted satellite dish antennas shall be located on the rear yard side of a building's roof, so as not to be visible from the front lot line. Ground-mounted satellite dishes shall be set back the installed height of the antenna from all lot lines and no satellite dish shall overhang any lot line. All satellite dishes shall be mounted at least 12 feet from any electric wires. If it is not possible for the satellite dish to be located as required, the property owner may seek a variance from the zoning board of appeals.

(c) In a nonresidential zone, no satellite dish antenna shall be located between any principal building and the front lot line. All satellite dish antennas over 12 feet in diameter and all ground-mounted satellite dishes over 15 feet in overall height shall require conditional use approval by the planning commission. Roof-mounted satellite dishes shall not exceed the zoning district height limit. Where placement of the satellite dish will cause it to be visible from a residential district or a public right-of-way, it shall be screened from view. The screening may consist of structures, plant materials, earth berms and/or fences. At least 75 percent of the antenna, to a height of six feet above the average ground elevation, must be screened from view of the abutting lot or right-of-way.

(d) Wireless communications towers and antennas. Wireless communications towers and antennas shall be permitted as conditional uses in the B-1 General Business districts, CBD Central Business districts, ~~RP Research Park districts, the I-1 Industrial and I-2~~RTECHRP Research Technology and LI Light Industrial districts and upon any publicly owned land within the boundaries of the city. All wireless communication towers and antennas are subject further to the following conditions:

(1) Operational requirements necessitate locating within the zoning district, and co-location on or joint use of any existing tower or similar antenna support facility is not possible.

(2) The tower or antenna shall not be unreasonably injurious to the safety or aesthetics of any nearby properties. The design and appearance of the tower or antenna shall minimize distraction, maximize aesthetic appearance, and ensure compatibility with any existing structure(s) and other surrounding structures and properties. The city will not consider those areas of regulation preempted by federal law.

(3) Co-location, or the provision of more than one antenna on a single tower at a single location, shall be required. Before approval is granted for a new facility, the applicant shall demonstrate that co-location at an existing site is not possible.

(4) Co-location shall be deemed to be "possible" for the purposes of this section where all of the following are met:

a. The applicant will undertake to pay fair market rent or other market compensation for co-location.

b. The site on which co-location is being considered, including reasonable modification or replacement of a facility, is feasible.

c. The co-location being considered is technologically reasonable, e.g., the co-location will not result in unreasonable interference, given appropriate physical and other adjustment(s) in relation to the structure, antennas, and the like.

d. Existing towers or structures are located within the geographic area which meets the applicant's engineering requirements.

e. The fees, costs, or contractual provisions required in order to share an existing tower or structure or to adapt an existing tower or structure for co-location are not unreasonable. For the purposes of this paragraph, costs exceeding those for new tower development are presumed to be unreasonable.

(5) In furtherance of the city's objective of requiring co-location, where possible, should it be necessary to erect a new tower or similar structure, the applicant shall provide a letter of intent to lease excess space on a facility and commit itself to:

a. Respond to any requests for information from another potential shared use applicant;

b. Negotiate in good faith and allow for leased shared use, provided it can be demonstrated that it is possible; and

c. Make no more than a reasonable charge, based upon fair market value, for a shared use lease.

(6) The antenna/tower shall meet all current engineering and any other applicable standards of all federal, state and local governmental agencies. The applicant shall also provide evidence satisfactory to the planning commission demonstrating that the proposed tower and related facilities are consistent with the current state of technology in the wireless industry.

(7) A condition of approval of a wireless communication antenna/tower shall be a provision acceptable to the city for the removal of all or part of the facility by users and/or owners upon the determination that the antenna has not been used for 180 days or more. Removal includes the proper receipt of a demolition permit from the building official and proper restoration of the site to the satisfaction of the building official after removal.

(8) Should a new antenna or cellular repeater co-locate on an existing wireless tower or an existing electric transmission tower, conditional use approval shall not be necessary and site plan approval for a new antenna, cellular repeater and any related equipment building may be granted administratively, pursuant to the provisions of article 27 of this ordinance. Where a new antenna, cellular repeater is co-located on a structure other than an existing wireless tower or electric transmission tower, conditional use approval shall not be necessary and site plan approval for a new antenna, cellular repeater and any related equipment building may be granted by the planning commission pursuant to the provisions of this ordinance.

(9) To ensure proper removal of the tower and/or antenna when it is no longer being used and/or abandoned, any application for a new tower and/or antenna shall include a description of security to be posted at the time of receiving a building permit for the facility. The security shall, at the election of the applicant, be in the form of cash, bank letter of credit, or surety bond acceptable to the city. An agreement to remove and maintain the tower/antenna, in a form approved by the city attorney and recordable at the office of the register of deeds, is also required, establishing a requirement of the applicant and the owner of the property to remove the facility in a timely manner with the applicant and owner being responsible for the payment of any costs and attorney's fees incurred by the city in securing removal. The applicant shall provide the city with a copy of its agreement with the tower owner, which shall include removal language acceptable to the city. In the event the applicant is proposing to place its facilities on an existing tower, then the agreement referred to above may be

signed by the applicant only, and shall contain provisions satisfactory to the city attorney regarding timely removal of the facilities and adequate remedies. The requirements of this subsection shall be binding upon all successors, heirs, and/or assigns of the applicant.

(10) All tower bases and related equipment shall be screened from view from any major arterial, public walking paths and any adjoining residential areas, consistent with article 28, landscaping, screen walls and woodlands protection. All ice bridges shall be located below the screening or base.

(11) Monopole antenna structures and stealth support structures are the only acceptable types of structures, except in the CBD. Only roof-mounted structures are permitted in the CBD.

(12) All towers, structures and related equipment shall be designed to be compatible and harmonious in terms of style and building materials to the surrounding area. When necessary to ensure compatibility with the surrounding area, a visual simulation may be required of the applicant. A visual simulation consists of an artist's or architect's rendering, or a suitable photo rendering of how the tower will appear in the area proposed, taking into account existing buildings and natural features.

(13) The maximum height of any new wireless communication tower or antenna shall be as determined by the planning commission through the granting of conditional use and/or site plan approval. The height permitted shall be the minimum height necessary to meet the applicant's engineering requirements for the site being considered, but in no instance shall it exceed a maximum height of 150 feet. It is understood that the height of a wireless communication tower or antenna may exceed the maximum permitted height specified in the Schedule of District Regulations found in article 20 of this ordinance. Should co-location be proposed upon an existing structure, thereby qualifying for administrative approval, the height proposed may be approved by the administrative official approving the site plan.

(14) Cell tower site access:

a. All trees and brush shall be kept cleared for a minimum width of 14 feet for the full length of all cell tower site access drives.

b. All topsoil, stumps, and unstable soil shall be removed and backfilled with appropriate granular material and surfaced with gravel, crushed limestone, finely crushed concrete or similar material approved by the planning commission, for a minimum width of 12 feet for the full length of the driveway. The installation shall be reviewed and approved by the city's engineer and/or director of the department of public works.

c. An appropriate area shall be provided for vehicles to turn around to exit the site such that ASHTO standards are met. The turnaround area may be incorporated as part of the parking area for service personnel.

(15) Prior to and as a condition of granting approval for a new wireless communication tower on private property, it shall be necessary for the applicant to demonstrate that it is not feasible to:

a. Locate the tower on any publicly owned land within the city upon which the public entity reasonably anticipates the need or desirability of a future wireless communication tower for public purposes; and

b. Locate the tower on publicly owned land not owned by the city where such location would minimize the impact on other properties by providing a setback larger than the minimum requirements of the ordinance, while meeting all of the other requirements contained in this section.

c. Use a cellular repeater to accommodate the demonstrated need for additional wireless communication service.

(16) Applicants who erect a new wireless communication tower shall design the tower and site to accommodate future co-location of at least six platforms (and the antennas thereon) and associated

accessory buildings, and shall make the tower available for use by public service agencies, provided that public service agency equipment mounted on the tower does not adversely affect any existing equipment and mounting the public service agency equipment is technologically possible.

(17) New wireless communication towers shall be set back a minimum distance of one foot for each one foot of overall tower and antenna height, except that towers shall be set back a minimum distance of two feet for each one foot of overall towers and antenna height when adjoining property zoned for residential use. The setback shall be measured from the nearest point of the base of the tower to the nearest property line, or unit boundary line in the case of a site condominium development. In nonresidential zones with nonresidential adjoining property, the minimum setback distance may be reduced to not less than the minimum setback required in the zoning district at issue when it is clearly demonstrated by the applicant that the tower has been designed to fall within the leased area in the event of structural collapse. Antennas located on electric transmission towers, existing wireless communication towers, or other tall structures shall be considered to have complied with the setback and height requirements. The setback from a public right-of-way or public or private street may be reduced to one-half the height of the tower. A preexisting, nonconforming tower may be rebuilt to its nonconforming height if the tower owner demonstrates to the planning commission that technology requirements are such that the current height is necessary to maintain current levels of service.

(18) Towers and equipment shall be regularly maintained, in accordance with a schedule or similar evidence submitted to the planning commission, in working order and in compliance with all governmental and regulatory agency regulations. Notices of any deficiencies, noncompliance or other violations of any laws, regulations or other requirements pertaining to the tower and its operation from any governmental agency shall be forwarded to the city manager and city attorney within 15 days of the owner's receipt of said notice.

(19) The applicant shall be required to obtain and maintain general liability insurance with issuers and in such amounts acceptable to the city. The applicant shall provide the city with certificates of insurance, and all renewal certificates, demonstrating that any damages caused by the tower/antenna including, but not limited to, any collapse or malfunction, will be covered. Such insurance shall be maintained at all times that the tower, equipment and/or antenna are located at or on the property.

(20) Applicants for a new wireless communications tower shall be required to demonstrate that the use of cellular repeaters is not feasible to accommodate the stated need for improved or additional wireless communications services. The city encourages the use of cellular repeaters to eliminate the installation of new towers and to reduce the number of existing towers, antennas and equipment. Cellular repeaters shall be designed and located to minimize their ~~noticeablity~~ visibility and blend into current towers and structures. The size and height of location of any proposed repeater units shall be based upon practical considerations and technology that is currently available, and shall not be located within driving sight lines.

(Ord. No. 2011-16, 9-26-2011)

Sec. 2107. Access required.

(a) Every building shall be on a lot adjacent and having access to a public street, or to a private street approved and meeting conditions established by the board of appeals. All structures shall be so located on lots as to allow safe and convenient access for fire and police protection, required off-street parking, and municipal services.

Sec. 2108. Public utilities and facilities as conditional uses.

Any use, structure or building of a public utility, municipal department or public commission which is not an "essential service" as defined by this ordinance may be allowed in any district as a conditional use. However, none

of the following shall be allowed in a residential district unless other locations outside residential districts cannot reasonable be substituted.

(1) Any public utility building of greater than one story or 15 feet in height, or any building to be occupied by more than two employees, or any building in which business is conducted with customers, or any garage for storage or service of vehicles.

(2) Any yard for storage of vehicles, building materials, construction equipment, road salt, sand, or gravel.

(3) Any tower or pole of more than four feet in height.

Sec. 2109. Minimum dimensions, floor areas, open space, and permanency requirements for dwelling units.

(a) The following requirements apply to dwelling units in all districts ~~except mobile homes which are located in a state licensed mobile home park that is zoned MHP, Mobile Home Residential District~~.

(1) Every dwelling unit having direct access to the outside ground (such as a one-family dwelling or townhouse), without principal access through a common entrance area, shall have a minimum outside building width of 16 feet, and a minimum outside length of 16 feet.

(2) Every dwelling unit shall be permanently attached to a permanent foundation.

(3) The minimum allowable floor area (see definition of floor area under article 39) of a one-family dwelling shall be as follows:

a. If the dwelling has a basement of at least 400 square feet floor area with at least 72 inches height clearance, the minimum allowable floor area (excluding basement) of the dwelling shall be 900 square feet;

b. The minimum allowable floor area of all other one-family dwellings shall be 1,200 square feet.

(4) The minimum allowable floor areas in two-family dwellings and multifamily dwellings as defined by article 39 shall be as follows:

One-bedroom units (including efficiency and studio units)	500 sq. ft.
Two-bedroom units	700 sq. ft.
Three-bedroom units	900 sq. ft.
Units of more than three bedrooms	An additional 300 sq. ft.

(b) The planning commission, in conjunction with site plan approval, may approve a reduction of up to 20 percent in the above floor area requirements for dwelling units in multifamily dwellings, based on one or more of the following conditions:

(1) Occupancy permanently restricted to elderly and/or disabled persons, as determined by the city planning commission.

(2) Common activity rooms and recreational facilities within the building or in close proximity.

(3) Unusual or special housing situations in which occupancy limitations can and will be administratively enforced, as determined by the city planning commission, such as public housing, college housing, or hospital staff housing.

(c) For purposes of this section, usable open space is defined as open space in the rear yard of a dwelling, or other space not located in a required front yard or required side yard, the least dimension of which is eight feet, and which is designated for and devoted to outdoor recreation such as play areas, patios, lawn,

gardening or similar purposes, and which is not used for parking of vehicles or equipment, storage, or driveways. The minimum usable open space per dwelling unit shall be as follows:

(1) One-family dwelling unit: 600 square feet.

(2) All other dwelling units, per bedroom (including efficiency and studio units): 150 square feet.

(d) The city planning commission shall grant 50 percent credit towards the above requirement for the floor area of balconies, porches, and roof patios which it finds serve the intent of this section. The provisions of this section do not reduce any other provisions of this ordinance in regard to required setbacks, lot coverage, open space, or off-street parking requirements.

Sec. 2110. Dwelling esthetics compatibility.

(a) The provisions of this paragraph apply to all dwellings ~~except mobile homes located in a state licensed mobile home park that is zoned MHP, Mobile Home Park District~~. The dwelling shall have a roof overhang of not less than six inches on the building front, or alternatively shall have roof drainage concentrating drainage discharge at specifically designed outlets along walls of the dwelling. A single-family dwelling shall have at least two exterior doors, one of which shall be in either the side or rear of the building. No exterior building finish, except glass and incidental minor appurtenances, shall be used which has a tendency to reflect light glare. All exterior materials shall be, and visually appear to be, of a permanent and durable character, and constructed in a proficient manner of good quality, based on the commonly prevailing standards of the home building industry and building trades in Oakland County.

Sec. 2111. Upper story apartments.

~~Special exception approval for u~~Upper story apartments ~~is~~ are intended to improve the city's business district~~s~~ by lowering vacancies in upper stories and by bringing people back into the downtown. The city hopes to make quality apartments available, through the private sector, that are closer to the community's center of activity than the majority of the existing rental housing units.

~~(1) Upper story apartments may be permitted in the CBD, B-1, O-1, and O-2 districts.~~

~~(2) Upper story apartments shall require special exception approval subject to the requirements and procedures of article 26.~~

(~~3~~1) Upper story apartments may be permitted in existing multi-story buildings, new construction, and additions to existing one-story buildings.

(~~4~~2) Off-street parking shall be provided on-site in accordance with the requirements of article 24 for all upper story apartments except those located within the parking exempt zone. Upper story apartments located outside the parking exempt zone that do not have sufficient space for parking on-site may seek approval of one of the following options:

a. Parking space on nearby private property by ownership or lease arrangement, provided such property shall not be zoned One-Family or Two-Family Residential, and said parking space shall be available for the exclusive use of the upper story apartment in perpetuity or until the upper story apartment use is terminated.

b. Overnight permit parking in a city-owned public parking lot.

c. Payment of a fee in lieu of parking equal to the current cost to the city of providing the equivalent number of public parking spaces, based on a size of 300 square feet per space.

(~~5~~3) All upper story apartments shall meet the minimum allowable floor area requirements of section 2109.

(~~6~~4) There shall be no open, exterior stairways providing access to upper story apartments, however, in circumstances where interior stairways would be difficult to provide, unique designs for open stairways

may be considered where special design attention is given to safety and aesthetic appearance. Whenever possible, stairway entrances shall be located within the interior of the existing first floor area.

Sec. 2112. Non-functional and/or non-structural towers.

(a) Certain building elements which are non-functional or non-structural and typically take the form of a tower or similar monolithic element of greater height than the principal building elements whose only purpose is to attract attention are hereby declared to be out of character with the nature of the historical, present, and desirable future building development within the City of Rochester. This prohibition shall not apply to church steeples or similar building elements of a church or other house of worship.

Sec. 2113. Nursery schools, child care and day care centers.

Nursery schools, child care centers, day care centers, and similar uses shall be ~~permitted in the O-1, O-2, B-1, CBD, and I-1 districts,~~ subject to ~~special exception approval and~~ the following standards:

(1) All such uses shall provide adequate drop-off and waiting space so that parents' cars are not required to stand in a public right-of-way. At least one drop-off space, or its equivalent as determined by the planning commission, shall be provided for each five persons or children enrolled or cared for at the facility.

(2) Outdoor play space shall be provided in the ratio of 50 square feet per child cared for, to a maximum required of 10,000 square feet. No outdoor play area shall be less than 1,000 square feet. An outdoor recreation area is recommended, but not required, for adult day-care facilities.

(3) To ensure child safety, all outdoor use areas shall be enclosed by a four foot six inch high fence of a non-climbable design. On those sides abutting a residential zoning district or use, a six-foot-high obscuring fence of masonry or other material approved by the commission shall be required.

(4) The site layout shall be designed to ensure pedestrian safety by separating play areas from parking and driveways.

(5) Overnight and night time care after 8:00 p.m. may be permitted by the planning commission only after an affirmative finding regarding each of the following standards:

a. The child care facility is operated in support of an existing business or institution in the city, principally for its own staff or employees, or is otherwise demonstrated to be targeted to serving existing businesses and institutions located within three miles of the city.

b. The interior floor plan, fire prevention plan and equipment, fire exits, and emergency evacuation plan shall be reviewed and approved by the city fire marshal.

c. The building shall include full fire suppression, as approved by the building inspector.

d. The applicant shall file a proposed plan of operation addressing the following as illustrations only: security; staff to children ratios; parking/drop-off hours; staff training and certification; notification regarding transfer of ownership; 24-hour contact names and phone numbers for the person(s) with daily management responsibility; and other matters neither enforced nor regulated by the department of social services.

e. Evidence of compliance with the department of social services child care center rules regarding night time care.

(6) All day care facilities shall provide 50 square feet of indoor space for each adult or child in their care, based upon their current license and any conditions of their conditional use permit. This space shall be exclusive of space for offices, restrooms, and kitchens.

(7) Sufficient on-site parking shall be provided to satisfy the needs of the staff, visitors, and clients of all day care facilities, as determined by the planning commission based on review of the site plan. One space for each five persons cared for shall be provided on-site as the customary standard; however, this may be modified by the planning commission based upon site layout and plan of operation for larger facilities and those that include overnight care under subsection (5) of this section.

(8) Annual inspections of proposed facilities may be required as a condition of approval.

(9) Subject to a finding of no substantial adverse impact to nearby residential uses.

(Ord. No. 2007-03, 4-23-2007)

Sec. 2114. Bed and breakfast homes.

In addition to the districts that include Bed and breakfast homes, ~~are a principal permitted use in the CBD and B-1 districts and may be permitted as a special exception use in the O-1 and O-2 districts. T~~they may also be permitted as conditional uses on residentially zoned properties that have frontage on and driveway access to North Main Street or West University. Bed and breakfast homes are subject to the following standards:

(1) Bed and breakfast homes shall comply with licensing and inspection requirements of all state, county and local codes and regulations and shall submit all required fees to the city with an application for special use approval.

(2) There shall be no separate cooking facilities in the bed and breakfast sleeping rooms.

(3) Only one, non-illuminated sign of not more than four square feet shall be permitted and shall be located on the building in residential districts. In commercial and office zones, signs shall comply with the requirements for that particular district.

(4) The number of off-street parking spaces shall be provided as outlined in section 2403.

(5) In commercial and office districts, the design and construction of off-street parking shall comply with the standards of section 2403.

(6) In residential districts, the design and construction of off-street parking shall comply with the following:

a. Parking is prohibited between the principal building and the front lot line.

b. Parking lot lighting is prohibited in residential districts except for the use of residential porch and landscape lights.

c. Parking shall not be permitted within a required rear yard setback unless the planning commission finds that adequate screening can be provided to ensure that there will not be a deterioration of the quality of life to the abutting residential property owners.

d. In order to preserve the residential character of the area, the planning commission may permit stacking of the owners'/manager's vehicles.

e. Screening for off-street parking shall be provided for abutting residential uses. Such screening shall consist of a dense evergreen planting with shrubs not less than 3½ feet tall at the time of planting. Screening shall be maintained by the operator of a bed and breakfast and shall be inspected annually as part of the license renewal process.

f. The planning commission may limit the number of guest rooms otherwise permitted if it finds that the required parking for the requested number of guest rooms would be excessive for the site and significantly detract from the residential character of the neighborhood.

(7) Bed and breakfast homes shall be confined to the dwelling unit, which is the principal dwelling unit on the property. No structure shall be modified or reconstructed for a bed and breakfast home in a

manner inconsistent with its residential character and use, and adequate living space must be preserved for the owner's/manager's quarters. A common room for guest relaxation is required in these facilities.

(8) In a residential district, bed and breakfast operations shall not be granted if the essential residential character of a lot or structure, in terms of use, traffic generation, or appearance will be changed in a manner inconsistent with the immediate neighborhood. The dwelling unit in which the bed and breakfast takes place shall be the principal residence of the owner/operator, and said operator shall live on the premises when the bed and breakfast operation is active.

(9) The maximum stay for any guests at a single bed and breakfast home shall be 14 consecutive days to a maximum of not more than 30 days per year.

(10) Rooms utilized for sleeping shall have a minimum size of 100 square feet for two occupants with an additional 30 square feet for each additional occupant to a maximum of four occupants per room.

(11) A minimum of one full bathroom shall be provided for every two guest rooms.

(12) In residential districts, a bed and breakfast home shall be limited to not more than two outside (non-resident) employees. Residential-type services, such as house cleaning and yard maintenance, are permitted.

(13) ~~In O-1, O-2, and residential districts, bed and breakfast homes shall meet all other standards for special exception approval outlined in article 26 of this ordinance.~~

~~(14) Special exception~~Conditional use approval for bed and breakfast homes may be transferred to subsequent owners with the approval of city council and issuance of a new annual license.

(Ord. No. 2009-21, pt. 4, 11-9-2009)

Sec. 2115. Special projects approval standards.

(a) The city's adopted master plan includes proposals for the development/redevelopment of a number of special projects. A "special project" means a development that is located within the special project overlay district or other non-residential or multiple family zoned property adjacent to the special project overlay district boundary line, subject to city council approval upon recommendation by the planning commission, that would not meet or fully comply with all of the zoning requirements or permitted uses applicable to that property and its underlying zoning district, but which the developer seeks approval and which the city will consider if certain conditions and requirements are met by the developer that would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity and/or general welfare. These special projects include a variety of land uses and sometimes involve mixed-use development proposals. The typical zoning district found in this Zoning Code is often too rigid to accommodate the type of innovative development proposals the city hopes to encourage within the special project areas. At the same time, it may not be possible to develop a zone or zones with the needed flexibility. In order to encourage the most creative approach to development of the special projects, the city has chosen to create special projects review process and standards.

(b) Each applicant for special project approval must, to the extent applicable, submit the following as part of the application:

(1) A detailed site plan of the proposed special project, including site location and surrounding buildings, zoning and uses;

(2) Exterior building elevations and floor plans;

(3) A statement providing the number of new employment opportunities to be created as a result of the project;

(4) A statement indicating the applicant's ownership or leasehold interest in the property;

(5) A statement as to why the proposed special project will be a positive improvement to the city;

(6) Information showing the project's impact on the surrounding area, including, but not limited to, such things as parking, traffic, infrastructure and neighboring properties.

(7) For special projects that involve historical preservation or rehabilitation as part of the application, or that becomes part of or a condition of special project approval, the applicant shall provide a report and documentation from a qualified historic architect, regarding the items proposed to be preserved and the means and methods of how the preservation and/or restoration will be accomplished. For purposes of this section, a qualified historic architect shall mean an architect who possesses professional qualifications including, but not limited to:

a. Having a professional degree in architecture;

b. Being a licensed architect in the State of Michigan;

c. Having a significant amount of professional experience in historic preservation, restoration and adaptive re-use building projects, including detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation project; and

Such a report and supporting documentation shall clearly describe the project work, the project's compliance with the Secretary of the Interior Standards (see section 2115(c)(9)), a detailed explanation of the historic features of the property to be preserved/restored/rehabilitated/replaced, and the means and methods by which efforts will be accomplished. The city council and planning commission may require additional information and documentation deemed appropriate for historic preservation.

(8) In addition to the foregoing, for special projects involving historical preservation or rehabilitation, the applicant shall deposit $1,000.00 with the city. Said deposit will be held by the city until such time as the project is completed and receives final certificate of occupancy, unless some or all of said deposit is utilized for dispute resolution provided for in subsection (c)(9) below.

(c) In reviewing an application for special project approval, the following standards shall be applied:

(1) Special project approval may be granted for development projects only if they are located on property designated as a special project on the city's adopted master plan or other non-residential or multiple family zoned property adjacent to the special project overlay district boundary line, subject to city council approval upon recommendation by the planning commission. The arrangement of uses shall be based upon a detailed site plan and rezoning for the individual uses approved shall not be necessary.

(2) The appropriate mix and the specific land uses approved shall be determined by the city council after input from the planning commission, using the goals and objectives of the master plan as its guide, based upon the site plan submitted.

(3) Residential densities in excess of ten units per acre may only be approved upon a finding that the site plan provides adequate light, air, open space, and off-street parking, and that the design and layout promotes the public health, safety and general welfare.

(4) The opinions of local residents, area businesses and property owners presented at or before the public hearing.

(5) The desirability of the proposed use(s) in the city.

(6) The effects that the special project will have on the adequacy of parking in the area; vehicular circulation; pedestrian movement; infrastructure; city resources; and the health, safety and welfare of the general public.

(7) The overall benefit of the applicant's proposed special project and plan of operation to the city.

(8) Any other factor or factors that may affect the health, safety and welfare or the best interests of the city and its residents.

(9) For all special projects that involve historic preservation or rehabilitation, the site plan and the report of the property (required in section 2115(b)(7)) provided by the applicant shall be evaluated utilizing, among other things, the Secretary of the Interior's Standards for Rehabilitation found in 36 CFR 67. Such standards are as follows:

a. A property shall be used for its intended historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

c. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

e. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

h. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

The standards set forth above will be utilized regardless of whether the applicant is seeking tax credits or any specific historic preservation status. The planning commission and city council may utilize consultants, the "Guidelines for Rehabilitating Historic Buildings," produced by the Secretary of the Interior, and/or any such other resources as it may deem appropriate. The application may be referred to the historic district study committee, any other board or commission, or any qualified historical consultant deemed appropriate, to review and provide comments.

Once approved, should the applicant fail to comply with the approved historic preservation requirements, treatments and components, such failure shall constitute, among other things, violation of special project approval and the City Code pursuant to section 3700 of the Zoning Code, and the city may take any and all actions set forth therein.

In an attempt to arrive at an expeditious resolution, should there be a dispute between the applicant and the city as to the applicant's compliance with the approved historic preservation requirements and/or the application or interpretation of the Secretary of the Interior Standards for Rehabilitation to the project, the city may refer the issue(s) to a third-party historical consultant to provide an opinion/interpretation, with such opinion/interpretation being final and binding on both parties. The cost of the third-party historical consultant shall be deducted from the deposit required under subsection (b)(8) above.

(d) The special project approval process shall be as follows:

(1) Each application for special project approval, including site plan approval, shall be placed on the agenda of a regular meeting of the planning commission for review of the application content.

(2) A preliminary report shall be requested from the city planning consultant for that initial planning commission meeting, which shall evaluate the quality and content of the materials submitted, shall compare the use(s) proposed with the goals and objectives of the city's master plan, and shall recommend whether or not the application materials are sufficient to present the proposed special project and site plan at a hearing for public comment.

(3) After the planning commission finds that the special project and site plan application is sufficiently complete to present to the public, they shall schedule and hold a public hearing on the matter, in conformance with section 2602.

(4) After public hearing, the planning commission shall consider not only the special project application, but shall proceed with consideration of the site plan in accordance with article 27 of the zoning ordinance. Any such site plan approval shall be conditioned on the applicant receiving special project approval from city council.

(5) Following the hearing, if the planning commission approves the site plan, the planning commission shall transmit copies of the complete application, the approved site plan, the planning consultant's preliminary report, the draft minutes of the public hearing and the planning commission's recommendation on the special project application to the city council.

(6) The application shall be placed on the agenda of a regular meeting of the city council.

(7) If the city council believes that another public hearing on the application is appropriate, it may schedule and hold such a public hearing on the matter at its next regular meeting, or at a special meeting.

(8) Approval of a special project shall be in writing, based upon findings of facts, may include any reasonable conditions determined by the city council after input from the planning commission to be necessary to ensure compatibility with neighboring uses, and shall be attached to the site plan for the special project.

(9) For purposes of special projects, the applicant must obtain special project approval from city council within one year from the date the planning commission granted site plan approval under this section 2115. City council may extend this time in its discretion if it deems an extension to be appropriate. If special project approval is not obtained within this time, the applicant must seek site plan approval through the site plan approval process again.

(Ord. No. 2005-02, 4-25-2005; Ord. No. 2012-01, 3-26-2012; Ord. No. 2014-08, 7-14-2014; Ord. No. 2023-04, § pt. I, 5-22-2023)

Sec. 2116. Residential infill housing development standards.

(a) *Infill development definitions.*

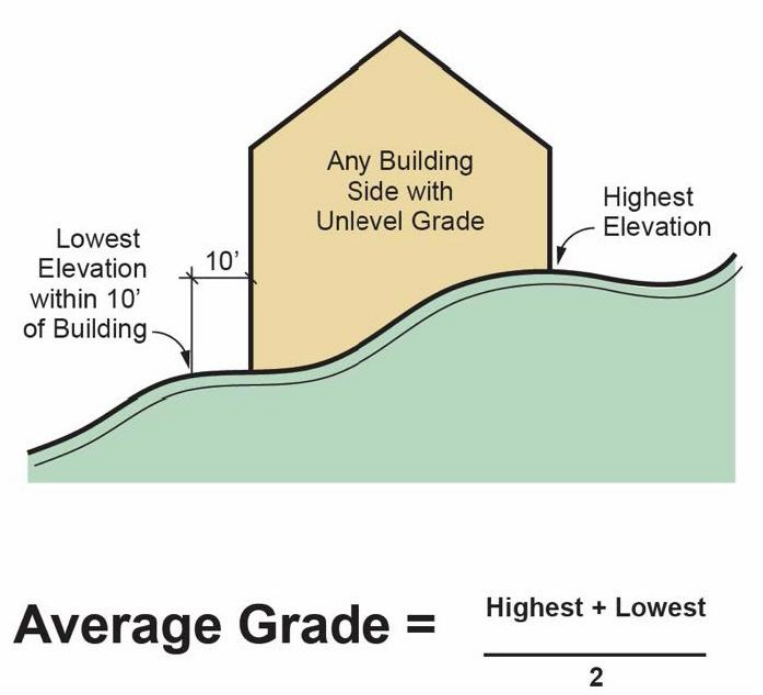
Average grade of an infill development lot means the average grade of the two lots immediately adjoining the infill development lot, measured at the front of the dwelling on each existing lot, as determined by the building inspector. The average grade for corner lots at the crest of a hill, lots at the bottom of a valley, and similar lots in non-standard settings shall be determined by the building inspector.

Infill development means demolition and replacement of an existing structure with one or more new structures; splitting of an existing developed lot to create an additional building site; construction on a vacant lot where the homes within 200 feet on the same side of the block are an average of at least ten years old; and/or the addition of 500 square feet or more to an existing home where the homes within 200 feet on the same side of the block are an average of at least ten years old.

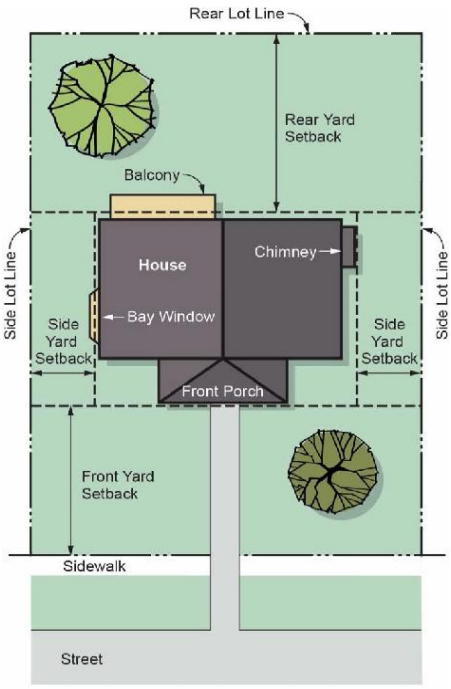
Infill house means a house constructed on a vacant lot or a house constructed to replace a demolished house where the homes within 200 feet on the same side of the block are an average of at least ten years old.

(b) *Residential infill housing development standards.*

(1) The top of the basement wall of a residential infill house shall not be raised more than 12 inches above the average grade of the lot, as determined by the building inspector. In addition, the first-floor elevation of a residential infill house shall not be more than 36 inches above the average grade of the lot, as determined by the building inspector.

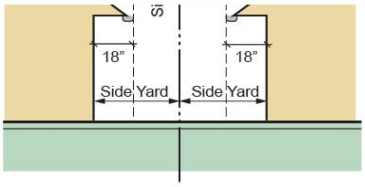


(2) The average grade of a lot shall not be raised above the average of the grade of the lots on either side but may be lowered, as determined by the building inspector, even if removal of existing mature tree(s) would be required. Positive drainage shall be provided such that water drains away from the infill house and is not allowed to drain onto abutting lots, however, historical drainage patterns may be maintained, subject to approval by the building inspector.



Infill Lot Projections

Permitted Building Projections into Required Yards



Eaves

Side yard example

(3) Driveways for infill development shall not be raised above the grade of the immediately adjoining residential lot.

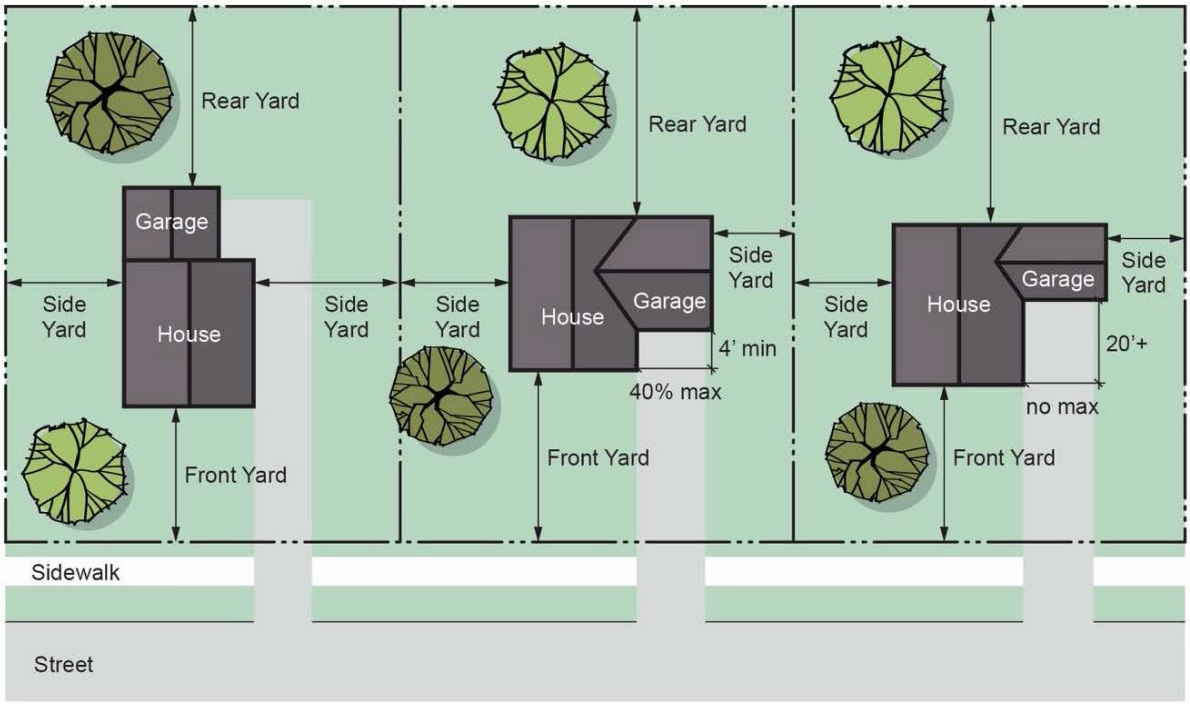
(4) There shall be no retaining walls permitted in the front or side yards of an infill development lot except those previously existing or those required to correct drainage problems. Existing retaining walls may be required to be reduced in height, as determined by the building inspector. This shall not prevent landscape walls, raised planter, and the like, constructed during the ordinary landscaping of the homesite, as determined by the building inspector.

(5) Architectural building features that are an extension of the building footprint shall not project into any required front, side, or rear yard.

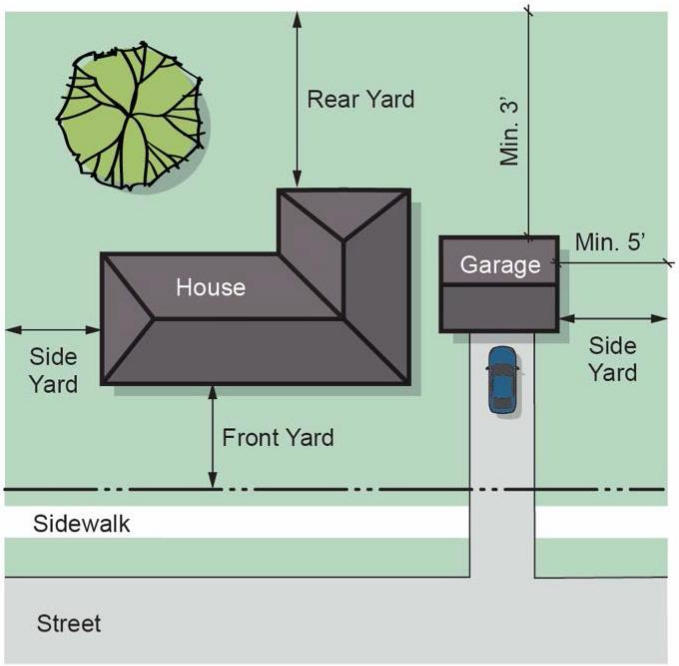
(6) A roof overhang, inclusive of gutters, may project into any required yard up to 18 inches.

(7) Architectural building features cantilevered from the building wall, such as but not limited to bay windows, alcoves, and the like, may project up to 18 inches into a front or rear setback, provided such

features do not exceed 20 percent of the front wall area or 50 percent of the rear wall area of the dwelling. Such building features may project into any required side yard up to 18 inches.



Attached Garages



Detached Garage Setback

(8) In single-family districts, detached and attached garages shall conform to the standards in section 2102, accessory structures.

a. The front wall of an attached, front-entry garage shall be setback at least four feet behind the front wall of the dwelling to which it attaches, unless 20 percent of the existing homes within 500 feet on both sides of the street already fail to meet this standard.

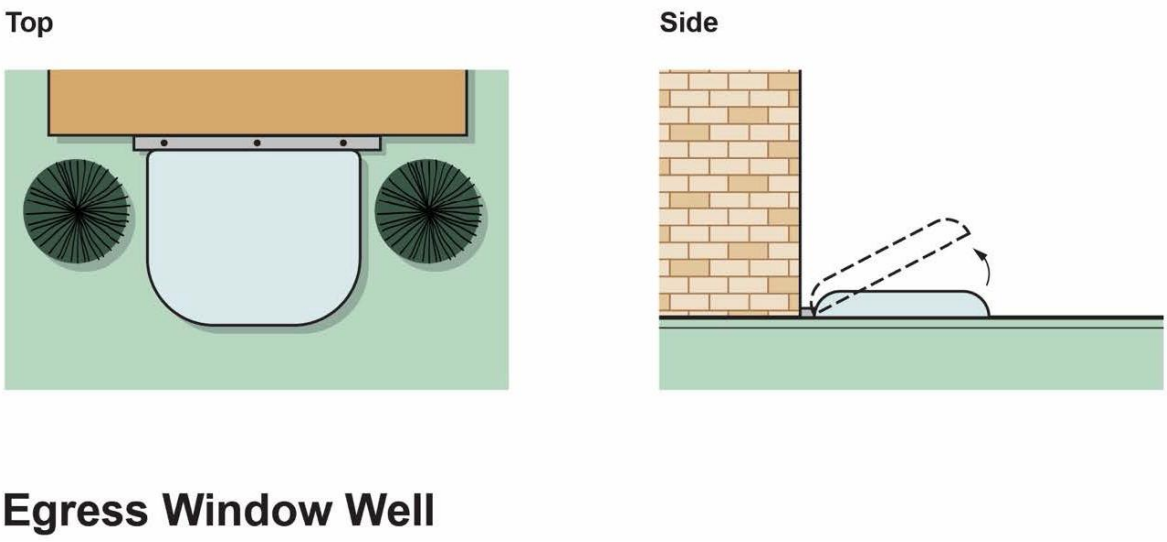
b. Detached garages on infill development homesites shall be setback not less than five feet from all side lot lines and three feet from rear lot lines.

(9) The front setback of an infill house need not be greater than the average front setback of the homes within 200 feet on the same side of the block, even if this average setback is less than the minimum required for the zoning district in question (see attached illustration "B" (in section 2117).

(10) The front setback of an infill house shall not be greater than the front setback required in the zoning district in question unless the average front setback of the homes within 200 feet on the same side of the block is equal to or greater than the proposed setback. (See attached illustration "C" (in section 2117).) On corner lots the front setback of the homes within 200 feet in the interior of the block shall be used to establish the average front setback. (See illustration "D" (in section 2117.)

(11) Egress window wells may project into any required side or rear yard provided they are set back a minimum of two feet from any side or rear property lines. Egress windows may not project into a required front yard.

a. Egress window wells in side yards shall be provided with a permanently anchored, hinged cover. Covers shall be able to support a minimum of 40 pounds per square foot of surface area.



b. Egress window wells shall comply with all applicable building codes.

(12) Sunken patios may project into any required side or rear yard, provided they are setback a minimum of three feet from any side or rear property line. Sunken patios may not project into a required front yard.

(c) *[Request for site plan review and approval.]* If an applicant for a building permit for a residential infill development objects to a decision of the building official with regard to the standards in subsection (b) above, the applicant may appeal that decision and/or seek a variance from the zoning board of appeals in accordance with section 3001.

(Ord. No. 2000-09, pt. 1, 12-11-2000; Ord. No. 2011-02, 2-14-2011; Ord. No. 2012-10, pt. I, 6-25-2012; Ord. No. 2021-01, 3-8-2021)

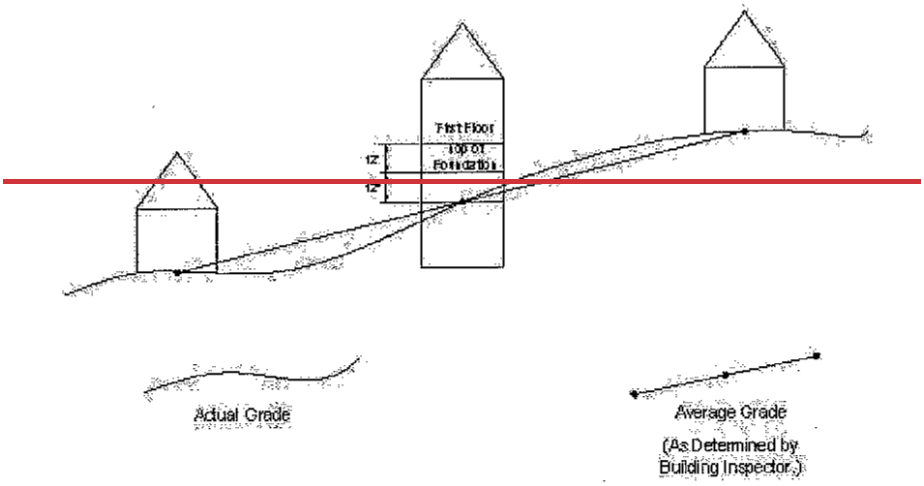
Sec. 2117. Parcel width compatibility standard.

This ordinance recognizes that there are existing neighborhoods where the typical size of actual homesites exceeds the minimum lot width requirements of the zoning district. Within such neighborhoods, it is the intent of this ordinance to maintain and promote development patterns that are compatible with these existing neighborhood characteristics. Whenever existing parcels are proposed to be split and/or recombined to create two or more building sites, the minimum required parcel width shall be the greater of the following:

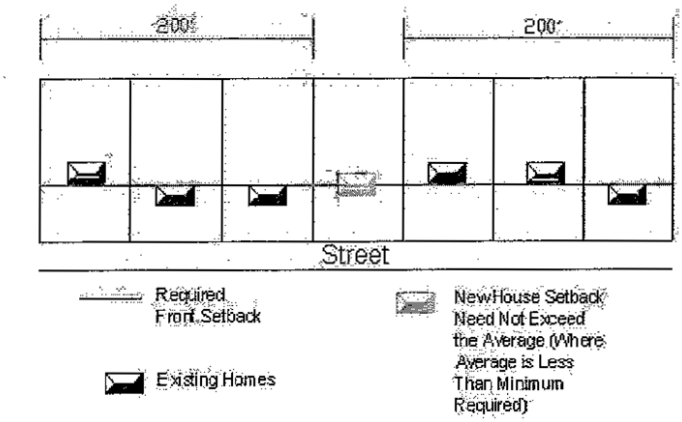
(1) The minimum lot width required in the zoning district; or

(2) The average width of the existing parcels on the same side of the street and within the same block or the average width of the existing parcels on the same side of the street within 200 feet on both sides of the subject parcel, whichever distance is less.

"A" Average Grade/ First Floor Height

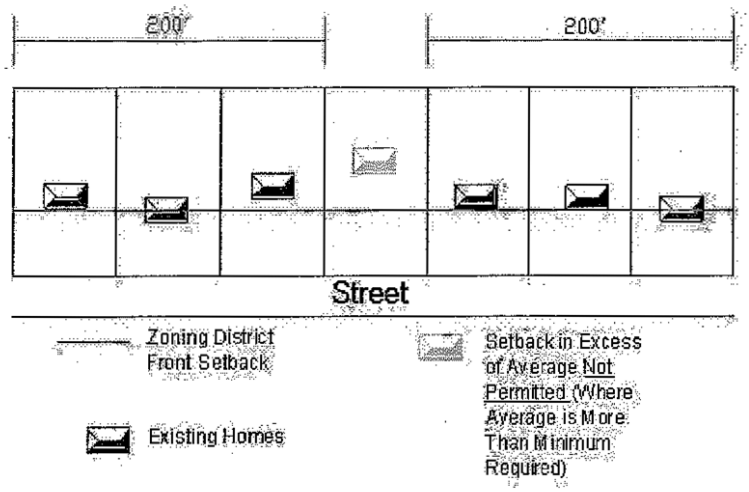


"B" Average Front Setback



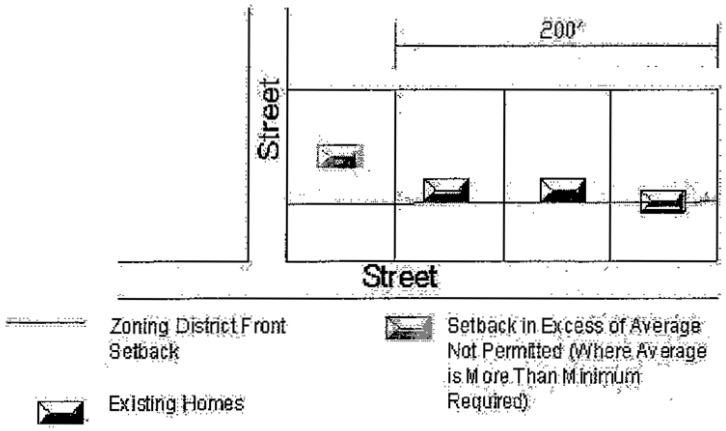
"C" Average Front Setback

For Mid-Block Lots



"D" Average Front Setback

For Corner Lots



(Ord. No. 2001-12, 12-12-2001)

Sec. 2118. Architectural guidelines and standards for nonresidential and mixed-use buildings and projects.

The requirements of this section are intended to promote architectural and site design treatments that will enhance and maintain the visual appearance and character of development within the City of Rochester. The

standards are consistent with the City of Rochester's adopted design guidelines and represent the city's desire to create and maintain a strong community image and identity.

(1) *Development in the Central Business District.*

a. *Applicability.* Provisions of this section are applicable to all downtown development in the CBD, including new buildings as well as the redevelopment of an existing building that alters more than 50 percent of the gross floor area.

b. *Facade standards.* All exterior building facades that face a public right-of-way shall be designed to maintain the rhythmic pattern of the street and to stimulate visual interest through the use of materials and architectural treatments. Architectural features shall be compatible with the established pattern of neighboring buildings.

1. The size and shape of windows for new construction should be similar to the neighboring buildings in order to maintain the facade pattern of the block.

2. Glass to wall percentages should reflect the different uses of the building.

(i) Facades of first floor commercial uses shall incorporate display windows on a minimum of 40 percent to a maximum of 60 percent of the facade area. Non reflective clear glass windows shall be used on the first floor to prevent glare and to increase pedestrian interest.

(ii) Upper story office and residential facades should have a glass area ranging from 15 percent to 50 percent of the facade area. Windows on upper stories should be vertically oriented.

3. Well-defined, attractive entrances shall be encouraged to attract pedestrian interest. Main entrances shall incorporate design features such as canopies, recessed entrances, and architectural details such as moldings, unique door pulls and decorative tile work. Recessed entrances shall be set back approximately four feet for adequate space and to create a distinct threshold from the street. The building facade line shall be maintained on upper floors.

4. Exterior building materials and colors contribute significantly to the visual impact of a building on the community. Wall materials shall be compatible with the character of existing neighboring buildings. The use of certain materials on facades in the Central Business District is restricted as follows:

(i) Facade materials for developments shall use similar scaled elements and materials found in the district such as brick and modular stone.

(ii) Exterior insulation finish systems (EIFS) or other synthetic materials may be approved by the planning commission for decorative or accent features. Such materials may be used as a primary facade material provided they are installed at a height of ten feet or greater above grade and provided that they constitute not more than 20 percent of the total facade area, excluding window areas. Whenever EIFS is used on the first floor as a decorative or accent feature, it shall incorporate high impact reinforcing mesh.

(iii) Blank wall areas on any facade shall not exceed ten feet in vertical direction or 20 feet in horizontal direction.

(iv) Material transitions and a minimum one- to 1½-inch variation in the wall plane shall be used to create interest on the facade surface.

5. Development within the Central Business District must provide a minimum of three of the following building design treatments:

    (i) Raised parapet with cornice over primary customer entrance, integrated with the building's massing and style.

    (ii) Arches or arched forms.

    (iii) Canopies or porticos integrated with the building's massing and style.

    (iv) Ornamental and structural details that are integrated into the building structure such as but not limited to decorative coursework, pilasters or columns, corbeling, reveals or caps.

    (v) Recessed building entrance.

    (vi) Decorative urns or planters.

    (vii) Perimeter landscaping planted adjacent to and along the full length of the facade. The landscaping should be a minimum of four feet wide and shall be planted in accord with article 28.

    (viii) Artwork, including sculpture, stone or ceramic decorative tiles or similar features and excluding corporate logos or advertising.

6. Alley facades should be maintained to provide an attractive face to rear entrances and parking areas. The following design requirements apply to alley facades:

    (i) Mixed-use buildings with residential uses shall have direct access to residential units from the alley facade.

    (ii) Alley facades shall maintain interest through the use of additive structures such as stairways, decks and outdoor terraces. Outdoor terraces should be encouraged as an amenity for residential units in mixed-use buildings.

    (iii) Buildings should step down to the more narrow scale of the alley.

    (iv) Glazing on alley facades shall be adequate to allow sufficient light and ventilation into the building.

c. *Building mass scale and form.* The placement, mass and scale of buildings help to maintain the coherent visual image and character of the downtown. Large monolithic buildings are incompatible with the established character of the City of Rochester's Central Business District. The following requirements are intended to maintain and enhance that established character by providing for compatible new development.

1. A maximum front yard setback of zero feet shall be maintained in the Central Business District to maintain the street wall, unless otherwise approved by the planning commission.

2. In the Central Business District, a portion of the building wall may be set back from the sidewalk to provide for outdoor seating or public space if the front line of the building is maintained through the use of planters, railings, columns or similar features.

3. Off-street parking shall be provided behind the building.

4. Buildings shall be built out to the full width of the parcel.

5. For buildings exceeding the typical downtown building width of 20 to 50 feet variations in design features shall be used to ensure compatibility with existing building widths in the district. Approved variations include:

(i) Changes in facade materials, window design, facade height or decorative details intended to add interest to the facade.

(ii) Use of structural bays to break down the mass of the building horizontally and vertically into a hierarchy of volumes.

(iii) Variations in the wall plane shall be used to maintain a human scale.

6. Rectangular forms should be dominant and should be vertically oriented consistent with existing development in the district.

7. Where feasible a maximum distance of 150 feet should occur between pedestrian entrances to buildings.

8. No side yards are required along interior lot lines, provided all requirements of the building code have been met with regard to fire protection and separation, adequate light, and adequate ventilation.

9. Flat rooflines with detailed parapets and embellished cornice lines for architectural interest shall be the dominant roof form consistent with the character of the district.

10. Parapets shall have horizontal emphasis and add interest to the facade.

11. With the exception of corner buildings, parapets on side facades should step down toward the rear of the building.

12. Corner buildings should exhibit similar two-story facades to those on the principal street, with slightly greater height allowed at the corner as an anchor feature of the block.

13. Facade height of new buildings should fall within the established range of the block and respect historic proportions of height to width.

(2) *Office corridor development.*

a. *Applicability.* Provisions of this section are applicable to all O-1 and O-2 development, in the North Main and West University Office Corridors including new buildings as well as the redevelopment of an existing building that alters more than 50 percent of the gross floor area.

b. *Facade standards.* All exterior building facades that face a public right-of-way shall be designed to maintain the rhythmic pattern of the street and to promote continuity through the use of materials and architectural treatments. The unique and desirable character of existing development of the district should be the basis for renovation and new construction.

1. Buildings shall provide a primary entryway along the street frontage to maintain the pedestrian-scale environment of the area. Architectural details including but not limited to porches, pediments or raised points of entry shall be used to provide emphasis to the primary entryway.

2. Secondary entryways shall be provided where parking is situated along the side or rear of the building.

3. Exterior building materials and colors contribute significantly to the visual impact of a building on the community. Wall materials shall be compatible with the character of existing neighboring buildings. The use of certain materials on facades in the O-1 and O-2 District is restricted as follows:

(i) Facade materials for developments shall use similar scaled elements and materials found in the district such as brick and modular stone.

(ii) Exterior insulation finish systems (EIFS) or other synthetic materials may be approved by the planning commission for decorative or accent features. Such materials may be used a primary facade material provided it is installed at a height of ten feet or greater above grade and provided that it constitutes not more than 20 percent of the total facade area, excluding window areas. Whenever EIFS is used on the first floor as a decorative or accent feature, it shall incorporate high impact reinforcing mesh.

(iii) Blank wall areas on any facade shall not exceed ten feet in vertical direction or 20 feet in horizontal direction.

4. Development within the district shall incorporate the following building design treatments:

(i) Ornamental details such as roof dormers, bay windows, stoops, porches and window shutters or similar architectural features consistent with the residential character of the neighborhood.

(ii) Gable and cross-gable roof forms shall be the dominant roof form consistent with the character of the district.

(iii) Prominent building entrances.

(iv) Decorative urns or planters.

(v) Perimeter landscaping planted adjacent to and along the full length of the facade. The landscaping shall be a minimum of four feet wide and shall be planted in accord with article 28.

(vi) Artwork, including sculpture, stone or ceramic decorative tiles or similar features and excluding corporate logos or advertising.

(vii) Shapes and sizes of architectural features shall be consistent with the established character of the area.

c. *Site design, building mass, scale and form.* The placement, mass and scale of buildings help to maintain the coherent visual image and character of a district. Large monolithic buildings are incompatible with the established character of the City of Rochester's O-1 and O-2 Districts. The following requirements are intended to maintain and enhance that established character by providing for compatible new office development.

1. Buildings proposed on corner lots shall built to the corner with parking located to the rear or side of the building.

2. Parking areas shall not be located at the intersection. Parking frontage shall not be more than one-third of the frontage of adjacent buildings or no more than 64 feet, whichever is less. Landscaping and decorative screen walls shall be required along the street frontage of parking areas in accordance with article 28.

3. Sites must provide for pedestrian connections from the parking area to the primary entryway at the front of the building.

4. A landscape buffer shall be required for developments adjacent to residential uses in accordance with article 28.

5. Traditional proportions of height to width shall be maintained.

6. For buildings exceeding widths of 20 to 30 feet variations in design features shall be used to ensure compatibility with existing building widths in the district. Approved variations include:

(i) Use of structural bays to break down the mass of the building horizontally and vertically into a hierarchy of volumes consistent with the mass of existing buildings in the district.

(ii) Staggered setbacks and variation of materials.

(iii) Attachments such as porches that provide variety in building form.

(Ord. No. 2004-02, 3-22-2004; Ord. No. 2008-04, art. 3, 3-10-2008)

Sec. 2119. Awning standards in business and office districts.

Awnings which are functional and visually appropriate to the structure under consideration and provide an attractive addition to the building facade may be permitted in O-1, O-2, B-1, and CBD Districts, subject to the following standards:

(1) Awnings may be approved by the building inspector if they serve a functional purpose based upon one or more of the following criteria.

a. Provides shade or shelter for tenants, customers, shoppers or pedestrians.

b. Reduces glare or serves as an energy saver by controlling the amount of light that penetrates to the interior of the office, retail store, or upper story apartment space.

(2) The awning shall be consistent in design, materials, and color with the established character of the immediately surrounding district and neighborhood, based upon the following criteria.

a. The color of the awning is compatible with the building on which it is to be attached. If the building under consideration contains more than one storefront, office, or apartment, each with a different color awning, the colors shall be compatible.

b. In the Central Business District, awnings should be cloth, finish canvas, or similar in appearance to cloth or canvas. To that end, high gloss fabrics and coatings shall be avoided and translucent materials shall be prohibited. Glass or metal canopies may be permitted if they are integral to the facade design and compatible with the character of the district.

c. Upper facade windows may incorporate box awnings or a similar style. First floor storefronts and offices shall incorporate slanted awnings with straight lines and flat planes or a similar style.

d. When awnings are proposed on both upper and lower facades, they shall be of compatible color, material and design.

e. Awnings which purport to reflect a proprietary, franchise or corporate color, design, and/or material will not be approved if they fail to conform with the criteria in subsections (2)a through d of this section.

f. Awnings should be projected over individual doors and windows and shall not be continuous over the entire width of the facade in a manner that obscures architectural features of the building.

g. The awning or canopy must be permanently attached to the building mounted on wood or metal framing of the door or window and not the wall surrounding the opening.

h. Backlit awnings shall be prohibited.

i. The minimum height of the awning shall be at least eight feet from the lowest point of the sidewalk to ensure clearance for pedestrian safety.

j. Signs incorporated as a part of an awning may be approved by the planning commission if they comply with all other regulations of article 22 of the zoning ordinance and subsections (1) and (2) of this section.

(3) If an applicant for an awning permit objects to a decision of the building inspector with regard to subsections (1) through (2)j of this section, the applicant shall request review by the planning commission. Building elevation drawings and awning construction plans, as well as fabric and color samples, shall be submitted for the planning commission's consideration. This step shall be completed before the building inspector's decision may be appealed to the zoning board of appeals. An awning so approved by the planning commission may be constructed without consideration of the awning by the zoning board of appeals.

(Ord. No. 2002-03, § 1, 3-25-2002; Ord. No. 2004-03, 3-22-2004)

Sec. 2120. Screening of mechanical equipment.

Mechanical equipment shall be situated in a manner appropriate to the surrounding area. All uses, except single-family homes in R-1, R-2, R-3, R-4 and R-5 districts, shall provide sufficient visual and acoustical screening of mechanical equipment, demonstrating compliance with the standards below as well as the performance standards for sound as set forth in section 2301.

(1) All transformers, climate control and other equipment not located within the building shall be indicated on the site and building plans and screened from view from any abutting street or adjacent property by a wall constructed of the same materials as the building and not less than the height of the equipment to be screened. As an alternative, the equipment may be screened by dense landscaped plantings and or some other method approved by the planning commission. Where feasible such equipment shall be located within service alleys or other locations not immediately adjacent to streets, driveways or public gathering areas.

(2) Such equipment shall not be located in any required front yard nor in any required yard abutting a residential zoning district. Where mechanical equipment is proposed for a site that abuts an existing residential dwelling, the planning commission shall require additional methods of screening and or soundproofing deemed necessary to protect the residential use.

(3) All rooftop climate control equipment, elevator towers, transformer units, and similar equipment shall be indicated on the site and building plans and screened from view of any abutting street or adjacent property. The materials used to screen the equipment shall be compatible in color and type with the exterior finish materials of the building. Where possible, a parapet wall or similar architectural feature should be selected as the preferred method. These building architectural features shall be designed to completely obscure the rooftop equipment from view along a public sidewalk abutting the property and/or from a residential district abutting the property viewed from a height of five feet. The planning commission may permit rooftop equipment to be less than completely obscured where the parapet wall or similar feature would be out-of-scale with the building's architectural character.

(Ord. No. 2008-04, art. 2, 3-10-2008)

Sec. 2121. Outdoor dining standards.

Outdoor dining may be permitted as a non-transferable conditional use ~~in the CBD and B-1 districts~~ within the bistro overlay when incidental to a permitted restaurant or tavern, subject to the following special standards:

(1) Outdoor dining is only permitted immediately adjacent to the principal use on the same property, except as may be expanded into a right-of-way in accordance with subsection (6) of this section.

(2) Restaurants with outdoor dining shall comply with all licensing, permitting and inspection requirements of the City Code and shall submit annually all required fees with an application for approval. All initial applications for outdoor dining shall be submitted for city council approval once site plan and conditional use approval are granted by planning commission. Applications for subsequent years may be approved administratively by the city manager so long as the restaurant's outdoor dining

application is the same as the previous year and there has not been any reported problems with said use. Notwithstanding, the application shall come before city council every fifth year for approval.

(3) Outdoor dining areas shall be kept clean and free from refuse at all times.

(4) All outdoor dining activity must cease at the close of business. However, when an outdoor dining area is immediately adjacent to any single-family or multiple-family residential district, all outdoor activity must cease at the earlier of close of business or 12:00 (midnight), unless the planning commission deems a different time more appropriate based on the particular circumstances of the applicant, such as the extent of buffering, sound and lighting reducing efforts, location of the outdoor dining on the property and its proximity to the residential units.

(5) Table umbrellas shall be considered under site plan review and shall not impede sight lines into a retail establishment, pedestrian flow in the outdoor dining area, or pedestrian or vehicular traffic flow outside the outdoor dining area.

(6) For outdoor dining located in any portion of the public right-of-way:

a. All such uses shall be subject to a license agreement from the city, contingent upon compliance with all city codes including all conditions required by the planning commission in conjunction with site plan approval. A copy of the form license agreement may be obtained from the city clerk.

b. After planning commission approval of the conditional use, the proposed license agreement will be forwarded to the city council for its consideration. Nothing in this section shall be construed to require a license agreement for an establishment with a carry-out service, ice cream parlor, or similar use where patrons may leave the establishment before consuming the food purchased, unless said establishment chooses to operate an outdoor cafe and seeks approval as set forth herein.

c. In order to safeguard the flow of pedestrians on the public sidewalk, such uses shall maintain an unobstructed sidewalk as required by the planning commission, but in no case less than five feet.

d. No permanent fixtures may be erected or installed in the public right-of-way.

e. Should the right-of-way involved be under the jurisdiction of the Michigan Department of Transportation or other governmental agency, the restaurant owner or operator must obtain any required permits from such department or agency.

f. Insurance must be procured and maintained as required in the license agreement.

(7) Outdoor dining is only permitted during the months of May through October, unless the applicant sufficiently demonstrates to the planning commission that this period should be expanded based on the particular circumstances of the applicant. For a business that has already been granted conditional use for outdoor dining, such business may make a request to the city manager to allow for outdoor dining at other times if weather permits or for individual specific events. Any such temporary approvals shall be subject to all other terms and conditions of the current approval including, but not limited to, any license agreement and other governmental permits required for outdoor dining in the public right-of-way. No tables, chairs, platforms, fencing barricades, refuse containers or other items shall be permitted except during permitted operation days.

(8) Outdoor dining at any location is not permitted without a city-issued permit or license.

(9) All outdoor dining areas shall have a barricade, fencing, or other means of appropriately separating the dining areas from pedestrian and vehicular traffic, which shall be considered under site plan review.

(10) Additional off-street parking as set forth in section 2403 c.

(11) Restaurants with outdoor dining shall meet all other standards for conditional use approval outlined in article 26 of this ordinance.

(Ord. No. 2009-12, 5-11-2009; Ord. No. 2011-10, 7-11-2011; Ord. No. 2019-15, 8-26-2019)

Sec. 2122. Spacing standards for SDM-licensed establishments.

(a) The City of Rochester recognizes that the number of specially designated distributor (SDD) licenses approved within the city is regulated by the Michigan Liquor Control Commission, based on a city population formula applied uniformly in Michigan. The city also recognizes that there are no similar limits placed on the number of specially designated merchant (SDM) licenses issued within the Rochester city limits. The city has determined that an over concentration of these establishments can have a deleterious affect on nearby residential uses and commercial areas. In order to prevent an over concentration of SDM-licensed establishments, the city requires the following minimum spacing standards:

(1) Five hundred feet from all public or private schools providing education to any grade(s) K-12, whether located within the City of Rochester or on its perimeter.

(2) Five hundred feet from any other establishment with a SDM or SDD license.

(3) The distances set forth above between the school building or other establishment and the contemplated location shall be measured along the centerline of the street or streets of address between two fixed points on the centerline determined by projecting straight lines, at right angles to the centerline, from the part of the building nearest to the contemplated location and from the part of the contemplated location nearest to the building.

(b) The following shall be exempt from the spacing standards in subsections (a)(1) and (2) of this section:

(1) Any SDM-licensed establishment or proposed SDM-licensed establishment located in the CBD Central Business District; and

(2) Any restaurant with sit-down, table food service located in a Commercial (not office) district or approved by the planning commission as part of a special project.

(c) All proposed SDM license applications shall be reviewed by the building inspector, who shall determine whether the above spacing standards are met, based upon the parcel address on file for all K-12 schools in or adjoining the city, and all SDM and SDD-licensed establishments operating within the city.

(Ord. No. 2009-26, pt. 1, 12-14-2009)

Sec. 2123. Valet parking operational standards.

A valet parking operation is defined as a parking service provided by a commercial business as a service to the patrons of the facility by personnel retained to drive the patrons automobiles from a designated drop-off area to and from privately owned or city-designated valet parking spaces. Valet parking operations in the CBD zoning district, or for an approved special project downtown shall require a revocable license issued by the city council, following a review and recommendation to [the city] council by the planning commission.

(1) The following information must be provided/illustrated for review:

a. Location of dropoff (valet ramping) areas, in a clear and understandable format that illustrates the proposed area and operational valet plan;

b. Location and number of private valet parking spaces;

c. General operating procedures;

d. Proof of insurance covering the valet operation as proposed;

e. An agreement that indemnifies and holds the city harmless from liability associated with the operation of the valet parking service on a form acceptable to the city;

f. A list of the names, addresses and copies of driver's licenses of all valet drivers.

(2) Each request shall be considered according to the individual circumstances of the location.

(3) The city seeks to avoid multiple valet operations on adjoining properties, based on concerns of increased traffic congestion and confusion. When another valet parking license has already been issued for a valet parking area immediately adjacent to the proposed area, the issuance of a license will be on a case-by-case basis with the planning commission's review and recommendation to the city council to include the applicant's effort to coordinate valet operations with the adjoining property's valet license to use a single valet operation to service both properties.

(4) A license shall not be issued where the drop-off and pick-up of vehicles interferes with the safe operation of driveways, street intersections or crosswalks.

(5) A license shall not be issued where stacking of drop-off and pick-up of vehicles interferes with the safe traffic operation on adjacent streets or unduly delays normal traffic operations.

(6) Mobile stands, tables, chairs, keyboxes, ramping area directional signs, traffic cones and other objects necessary for the valet parking operation shall be of a high quality design and shall not interfere with pedestrian circulation as shown in the required plans in subsection (1)a of this section. Such objects shall be maintained in good repair at all times, shall be removed at the close of business each day, and operational rules for the valets shall be clearly posted in an appropriate and easily understood format.

(7) No advertising signs shall be permitted on the sidewalk or in the public right-of-way; this shall not prohibit the use of one business identification sign located on the sidewalk, bearing no advertising and not exceeding five square feet in area, to be affixed to the valet parking service stand to identify "Valet Parking" and the name of the valet service.

(8) The valet ramping area shall comprise a minimum of three adjoining parking spaces (approximately 60 linear feet). If the valet ramping area requires the use of metered parking spaces, the licensee shall pay a valet ramping fee according to the rate established by the city council.

(9) Valet ramping on public property shall not occur in any location other than the public alley or on-street curbside parking spaces designated for ramping. Ramping of vehicles shall consist of allowing the customer to enter or exit a vehicle and to turn it over to or retrieve it from a valet parking employee. There shall be no storage of vehicles in the area designated for ramping. A vehicle will be considered stored if it remains in the ramping area for more than ten minutes. Ramping from a moving lane of traffic is strictly prohibited and may subject the host business to loss of its valet parking license.

(10) Customer and valet entry to the ramping area shall only be permitted from the adjoining travel lane and only from the same direction as the adjoining travel lane. The host business/license holder shall submit, as a component of its general operating procedure, the manner in which the travel direction will be identified and enforced, such as by: travel direction and wrong-way signs; placement of temporary traffic cones, and the like. A valet parking license shall be subject to revocation if host business customers or valets are permitted to enter the ramping area from the opposing direction or across the oncoming traffic.

(11) All valet parking operations shall be kept clean and free of trash and debris, including valet tickets and stubs. An application for a valet parking license shall address the manner in which the licensee will comply with this standard.

(12) Upon violation of any provision of this ordinance or conditions imposed by city council, a license for valet parking operation shall be subject to revocation by the city manager following written notification to the licensee. The licensee may request a show cause hearing before city council to present proof of

compliance with the provisions of this Ordinance and any conditions of his/her license. A valet parking license shall be revoked if the city manager or city council determines that the operation of the service causes congestion which endangers the health, safety or welfare of persons, interferes with the appropriate use of other property; interferes with pedestrian or vehicular traffic; and/or interferes with the use of any pole, sign, fire hydrant, traffic signal or other object already permitted at or near the valet service.

(13) Annual renewal of a license shall require a demonstration of compliance with all requirements and permit conditions.

(Ord. No. 2010-01, 1-11-2010)

Sec. 2124.

Adult bookstore, adult cabaret and adult motion picture theater standards.

(1) These uses shall be situated within the district so as to be out of the reasonable proximity of uses selling alcoholic beverages and uses where minors are generally present; and, specifically, no such use shall be located within:

a. 1,000 feet of a church or house of worship;

b. 1,000 feet of a public or private school having curriculum including kindergarten or any one or more grades one through 12;

c. 750 feet of an establishment licensed by the Michigan Liquor Control Commission;

d. 1,000 feet of property zoned for any residential use under this ordinance, or a residential dwelling;

e. 750 feet of another adult bookstore, adult cabaret or motion picture theater.

(2) These uses, when permitted, shall, in addition to any other condition of approval required by the planning commission under article 26 hereof, comply and adhere to the following regulations in their daily operation:

a. No person under 18 years of age shall be permitted entry into an adult motion picture theater, adult cabaret or adult bookstore unless accompanied by the parent or legal guardian of such person. For purposes of enforcing this provision, the owner or agent of the person or entity operating the adult use shall require from all persons desiring to enter therein, the display of sufficient identification to ensure compliance with this provision, and for all determinations whether this provision has been satisfied, it shall be the burden of proof of the owner of the adult motion picture theater, adult cabaret or adult bookstore, to show clearly that the display of identification was required and that the identification displayed was sufficient.

b. No person under 18 years of age shall be employed by, or shall otherwise be permitted to be present at, or in, an adult motion picture theater, adult cabaret or adult bookstore.

c. Each and every person desiring to enter an adult motion picture theater shall be expressly verbally advised immediately prior to entry by the owner or agent of the person or entity operating the adult motion picture theater that the display to be presented on such occasion includes the display of specified sexual activities.

~~Reserved.~~Sec. 2125. Fence standards.

The requirements of this section are intended to promote, enhance and maintain the visual appearance, aesthetics and character of the city as well as the safety of the residents and visitors of the city. Fences are permitted in the city, subject to the following standards:

(1) *Permits.* No fence exceeding the height of 18 inches shall hereafter be erected or altered without first obtaining a permit from the city building inspector. A fee shall be paid for each permit applied for, which shall be set by resolution of the city council.

(2) *Restriction on fence construction.*

a. All fences located on property zoned for residential use of either a one-family, two-family or multifamily district shall be not more than six feet in height in any part and shall be subject to the approval of the city building inspector.

b. Fences six feet in height or less may be constructed of a solid material and may be fully obscuring. No sharp spikes, nails or other sharp points or barbed, razor or concertina wire shall be placed on top of any fence.

c. Fences four feet in height or less may be constructed of chainlink. No sharp spikes, nails or other sharp points or barbed, razor or concertina wire shall be placed on top of any fence.

d. No fence over 18 inches in height shall be constructed nearer to the street than the front building lines as established by the zoning ordinance. However, for purposes of this section, corner lots shall have only one front building line, that being the side where the front door is located.

e. Except where a higher height is permitted where a screen wall is required under section 2804, fences located on property zoned ~~O-1 limited office, O-2 restricted office, CBD, central business district, and B-1, general business~~ for commercial or office uses shall not exceed six feet in height, shall be decorative in nature, and shall be shown on a site plan for approval by the planning commission. No sharp spikes, nails or other sharp points or barbed, razor or concertina wire shall be placed on top of any fence.

f. Fences constructed on property zoned ~~I-1~~LI, Light I~~i~~ndustrial 1; ~~I-2, industrial 2;~~ or RP, R~~r~~esearch ~~park~~ Technology may be solidly constructed not to exceed eight feet in height, and shall be shown on a site plan for approval by the planning commission. Barbed wire may be installed on the top of such fences or arms or supports projecting over the private property side of the fence and when used shall be at least seven feet above the adjacent grade. Exception: Property adjacent to a public playground or park may be higher with permission of the zoning board of appeals.

g. Fences used in conjunction with outdoor dining are subject to the height, material, color and other requirements and conditions as approved by the planning commission and not subject to this section. Notwithstanding, no nails or other sharp points or barbed, razor or concertina wire shall be placed on top of any fence used for outdoor dining.

h. Fences shall contain no electrical current or charge of electricity.

i. All fences shall be maintained in good condition similar to their condition at [the] time of original construction, including that they be plumb and level. All deteriorated or missing sections shall be replaced.

j. Fences are subject to the corner clearance requirement in section 2100.

k. Properties with outdoor swimming pools, hot tubs and spas must meet and comply with all ordinance and state code requirements for fencing and barriers at all times, including swimming pools with powered safety covers.

(3) *Appeals.* The zoning board of appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the building inspector charged with the enforcement of this section. The zoning board of appeals shall not have the power of its own action to change or amend this section, but it shall have the power to authorize variations in height and extent of enclosure in the single-family residence district whereby the architectural and topographical design of

properties warrant more detailed consideration in variation from this section, which in no way is detrimental to the health, welfare or public safety of the surrounding properties and the community at large. The zoning board of appeals shall not have the power to change or amend the decision of the planning commission regarding outdoor dining fencing, nor fencing approved as an element of a site development plan. The zoning board of appeals shall not have the power to grant approval or a variance that would allow a property with an outdoor swimming pool, hot tub or spa without the fencing/barriers required by state codes.

(4) *Nonconforming fences.* The enactment of this section was for the purpose, inter alia, of relocating the fence regulations as set forth in sections 10-91 through 10-95 (of the City Code) into this zoning ordinance, to eliminate the fence viewing board and to transfer appeal authority to the zoning board of appeals. Any fence that was legal under the prior fence ordinance, but would not conform to this section, is to be considered a legal pre-existing nonconforming structure. However, the enactment of this section does not confer legal pre-existing nonconforming structure status to those fences that were not legal under the prior fence ordinance. Nonconforming fences, including repairs and replacement thereof, are subject to article 4 of this zoning ordinance.

(Ord. No. 2009-27, § 2125, 12-21-2009; Ord. No. 2021-09, § 1, 12-20-2021)

Sec. 2126. Bistro standards.

Bistros are permitted as a non-transferable ~~special exception~~conditional use with the following conditions:

(1) No direct connect additional bar permit is allowed;

(2) Alcohol is served only to seated patrons, except those standing in a defined bar area;

(3) No dance area is provided;

(4) Bistros must have tables located in the storefront space lining any street, or pedestrian passage, unless rooftop or balcony outdoor dining is approved;

(5) All building facades facing a street or pedestrian passage must be at least 70 percent glass, excluding from the calculation any portion of the facade or other features above eight feet from the ground. Such glazing requirement is to be calculated on a square footage basis. However, the planning commission may, in its sole discretion, reduce the glazing requirement under special circumstances, such as the bistro being located in an established structure that does not meet the glazing requirements and a modification would pose a hardship;

(6) All bistro owners must execute a bistro contract with the city outlining the details of the operation of the bistro;

(7) Outdoor dining must be provided, subject to section 2121, and is not permitted past 12:00 [midnight]; and

(8) Bistros are only permitted in the Bistro Overlay District.

(9) Interior seating shall be limited to service of 25—100 persons, with the maximum seating at a bar not to exceed six seats, unless a fewer number of bar seats is deemed more appropriate in the discretion of the planning commission.

(Ord. No. 2010-10, § 2126, 4-26-2010; Ord. No. 2012-11, 8-13-2012)

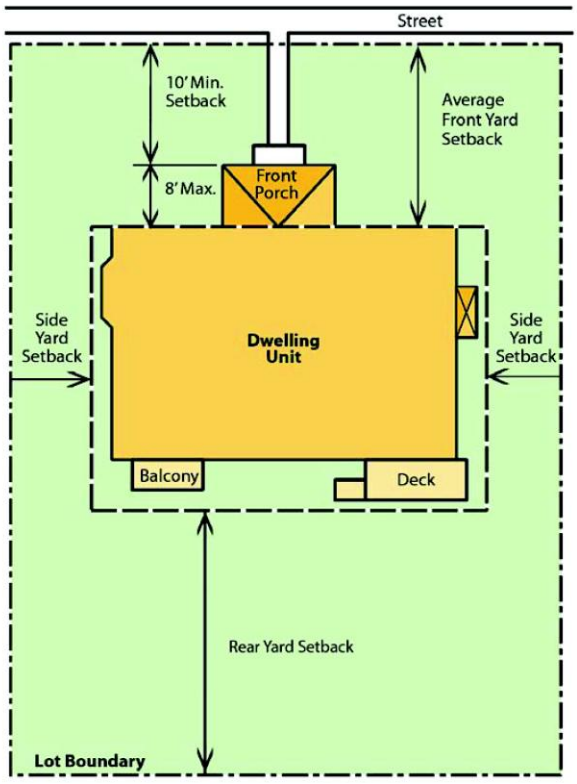
Sec. 2127. Porches in residential districts.

(1) *Definition.* A porch is defined as a roofed-over permanent addition to the front of a principal structure. The porch shall not be enclosed by any peripheral wall coverings or glazed window panels.

(2) *Setback.* A porch can project up to eight feet into the required front yard setback, but shall maintain a minimum setback of ten feet from the front property line. Steps providing access to the porch shall be excluded from the setback requirement (see illustration). For corner lots with wraparound porches, there shall be deemed to be two front yards.

(3) *Size.* A porch must have a minimum depth of six feet.

(4) *Design.* A porch shall be in keeping with the architectural design of the dwelling structure to which it is attached. Further, the design of the porch shall be in keeping with the character of the community.



Permitted Building Projections Into Required Yards

(Ord. No. 2012-10, pt. II, 6-25-2012)

Sec. 2128. Regulated outdoor smoking—Standards.

Outdoor smoking areas may only be permitted as a non-transferable ~~special exception~~conditional use in the CBD and B-1 Districts and only when incidental to a permitted restaurant or tavern, subject to the following special standards:

(1) Outdoor smoking areas are only permitted immediately adjacent to the principal use on the same property, except as may be expanded into a right-of-way in accordance with subsection (6) of this section.

(2) Properties with outdoor smoking shall comply with all licensing, permitting and inspection requirements of the city code and shall submit annually all required fees with an application for approval.

(3) Outdoor smoking areas shall be kept clean and free from refuse and smoking debris at all times.

(4) All outdoor smoking activity must cease at the close of business. However, when an outdoor smoking area is immediately adjacent to any single-family or multiple-family residential district, all outdoor activity must cease at the earlier of close of business or 12:00 [midnight], unless the planning commission deems a different time more appropriate based on the particular circumstances of the applicant, such as the extent of buffering, odor, sound and lighting reducing efforts, location of the outdoor smoking on the property and its proximity to the residential units.

(5) Table umbrellas shall be considered under site plan review and shall not impede sight lines into a retail establishment, pedestrian flow in the outdoor smoking area, or pedestrian or vehicular traffic flow outside the outdoor smoking area.

(6) For outdoor smoking located in any portion of the right-of-way:

a. All such uses shall be subject to a license agreement from the city, contingent upon compliance with all city codes including all conditions required by the planning commission in conjunction with site plan approval. A copy of the form license agreement may be obtained from the city clerk.

b. After planning commission approval of the ~~special exception~~conditional use, the proposed license agreement will be forwarded to the city council for its consideration.

c. In order to safeguard the flow of pedestrians on the public walkway, such uses shall maintain an unobstructed sidewalk as required by the planning commission, but in no case less than five feet.

d. No permanent fixtures may be erected or installed in the public right-of-way.

e. Should the right-of-way involved be under the jurisdiction of the state department of transportation or other governmental agency, the owner or operator must obtain any required permits from such department or agency.

f. Insurance must be procured and maintained as required in the license agreement.

(7) All outdoor smoking areas shall have a barricade, fencing, or other means of appropriately separating the smoking areas from pedestrian and vehicular traffic, which shall be considered under site plan review.

(8) Additional off-street parking as set forth in section 2403.c.

(9) Properties with outdoor smoking shall meet all other standards for ~~special exception~~conditional use approval outlined in article 26 of this ordinance.

(10) Outdoor smoking areas shall be configured in such a way to insure that persons entering or leaving the building or adjacent buildings will not be subjected to smoke, and to insure that smoke does not enter the building or adjacent buildings.

(11) Neither food or alcohol service or consumption shall be permitted in approved outside smoking areas.

(12) Outdoor smoking areas shall be in compliance with all state health department and other governmental regulations at all times, as those regulations may be amended or changed.

(Ord. No. 2013-17, 8-26-2013)

Sec. 2129. Medical marihuana uses.

The city does not allow, and hereby specifically prohibits, any and all commercial and business uses/facilities pertaining to medical marihuana including but not limited to those uses identified in the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., as currently constituted or as may be amended in the future. While the city recognizes that any such uses are only possible if the city has ordinance provisions authorizing any facilities per MCL 333.27205, the city hereby ordains that it is specifically prohibiting any such uses/facilities, regardless of

whether an applicant is otherwise eligible to get a license from the state department of licensing and regulatory affairs.

(Ord. No. 2014-12, 12-15-2014; Ord. No. 2017-11, 9-11-2017)

Sec. 2130. Oil and gas wells.

(1) *Purpose and intent.* The city believes that oil and gas exploration, drilling and extraction activities, including horizontal drilling, may pose public health, safety and welfare hazards to its residents without proper regulation. While there are some state and federal regulations in place addressing some of the possible negatives associated with such activity, the city deems them to be inadequate, and desires to exercise its police and zoning powers to further regulate said activities to the extent not preempted. Further, geological studies and reports show that due to the nature of the subsurface conditions in the Rochester area, hydraulic fracturing (or fracking) processes are unnecessary to extract oil and gas. These findings were confirmed by the oil and gas exploration and drilling companies presenting to the city in its attempts to obtain leases with the city, who went so far as to prohibit these processes from the leases presented. When determining where such activities would have the least amount of impact on its residents and potential areas of concern (i.e., water sources and higher concentrations of people), the ~~Research Park~~~~RTECH~~RP, and ~~I-1~~LI ~~and I-2~~ Districts were identified as most appropriate. When reviewing the intents and allowable uses in those districts (i.e., radio studios and transmitting towers, public utilities, electric transformer stations, sewage disposal plants, etc.), the city finds that permitted oil and gas drilling activities would be most compatible and reasonably removed from most residential and downtown areas to minimize the negative impacts on its residents.

(2) The drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes shall only be permitted in the RP, Research Park, and ~~I-1~~LI, Industrial ~~1 and I-2, Industrial 2~~, districts subject to the terms and conditions of this section and shall not be permitted in any other districts. Regulations and limitations in this section 2130 also apply to horizontal drilling activities, with or without surface activities. Further, hydraulic fracturing and/or fracking is expressly prohibited within the city.

(3) *Application*. The applicant shall file an application with the city describing the proposed oil or gas well location and activities. The applicant shall also pay an application/inspection fee, which shall be set by the city council pursuant to a resolution that shall be reviewed annually. No drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes shall occur until the city building inspector has issued a permit and applicant has paid the application/inspection fee.

(4) *Permits and plans to be submitted.* As part of the application, the applicant shall submit to the city a copy of all permits issued by any governmental agency, or applications for said approvals if a permit has not been issued. In addition, the applicant must provide the city a copy of the following at its own cost:

   a. Erosion and sedimentation control plan; *

   b. Grading plan; *

   c. Water management plan; *

   d. Water withdrawal plan;

   e. Pollution prevention plan;

   f. Waste disposal plan; *

   g. Timeline and activity schedule;

   h. A site restoration plan shall be submitted showing the nature, extent and timelines for site restoration once the well equipment is removed as is required in subsection (12); *

   i. A vehicle route as required in subsection (13)c.; *

j. An emergency response plan as required in subsection (13)d.;

k. Distance and testing results for water quality and quantity of surface, water and ground water surrounding the proposed well site or location of the horizontal drilling. The testing consultant must be agreeable to the city and shall certify the results;

l. A survey of the drill site with all on-site associated equipment and/or horizontal drilling location showing locations and distances to property lines, adjacent zoning and uses; and

m. A certified environmental audit performed by a Michigan licensed environmental engineer identifying all actual environmental impacts, all potential threats and impacts, and proper safeguards to eliminate same. Said audit shall include, but is not limited to, air, water and soil quality.

n. A copy of all oil, gas and mineral rights leases/reservations under which authority applicant will be operating.

* These items are not required if surface activity is not involved on the property.

Should the applicant want or need to deviate from any of the plans and documents noted above in any manner for any reason after approval, it is incumbent on the applicant to submit replacement plans or documents to the planning commission for approval before effectuating said changes. This is an ongoing obligation of the applicant.

(5) *Compliance with laws and permit issuance.* The drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes shall be done in conformity with all state and federal laws, statutes, rules, and regulations pertaining thereto, and particularly with the State of Michigan and the regulations of its supervisor of wells. This shall include obtaining the required permits from the supervisor of wells, which permits shall be provided to the city before the city issues a permit under this section. Conformance with state and federal laws, statutes, rules, and regulations including obtaining the required permit from the supervisor of wells shall also apply to, but are not limited to, the plugging of wells and all material used and work done in connection with the exploring for, producing, marketing, and transporting of petroleum products, as well as the disposition and removal of any byproducts utilized and associated with said activities.

(6) *Associated permits and approvals*. The permit required by this section is in addition to and not in lieu of any permit or plan which may be required by any other provision of this zoning ordinance, Rochester City Code, building and fire codes, or by any other governmental agency. Such permit and approval are non-transferable without written consent of the city, and shall automatically terminate if drilling is not commenced within one year from the date of the permit. The applicant may apply for an extension, but the granting of an extension is within the sole discretion of the city based in part on then current conditions.

(7) *Spacing and well setbacks.* In addition to the spacing and setback requirements of the State of Michigan and the regulations of its supervisor of wells, the drilling, completion, or operation of oil or gas wells shall not be located within 1,000 feet, and horizontal drilling lines shall not be located within 500 feet, of a residential zoned building (used for the purposes of residing in), religious institution, public or private school, child care facility, or hospital. The measurement of the setback shall be made from the center of the wellhead in a straight line, without regard to intervening structures or objects, to the closest exterior point of the adjacent building. The measurement for horizontal drilling lines shall be made from the closest part of the drilling line to the closest point of the adjacent building and/or its foundation. The edge of the well pad site (if any) shall meet the minimum building setback requirements of the zoning district or building and fire codes, or 300 feet from any lot line, whichever is greater. The spacing and setback requirements herein are in addition to any, and not in lieu of, required by state law, and may be increased based on physical characteristics of the site, including but not limited to topography, woodlands, and distance from structures, parks, schools, residential areas, and bodies of water or water sources.

(8) *Height*. The completed wellhead structure (if any) shall not exceed 22 feet in height. The temporary drilling derrick/rig shall not exceed 110 feet in height.

(9) *Landscaping*. Staggered 12-foot tall evergreen trees shall be placed around the perimeter of the well site with a minimum landscape greenbelt buffer of 25 feet in depth within 30 days of the removal of the temporary drilling derrick/rig. The landscape buffer and trees shall be irrigated, maintained, and materials replaced if dead. This provision is only applicable if surface activities are involved.

(10) *Lighting*. Site lighting shall be directed downward, internally, and in compliance with all city lighting standards. Notwithstanding any other standard, lumen levels shall not exceed zero foot-candles at any property line abutting a residential use. This provision is only applicable if surface activities are involved.

(11) *Fencing*. Prior to the installation or operation of any well, six-foot high chain-link fencing, wooden slats, or similar fencing/wall material shall be erected around the well site in such a way that prevents access by the general public. The fencing shall be anchored, attached or affixed to the ground, shall be of high quality material, and shall meet all City Code and Zoning Code requirements. The fencing shall be equipped with functioning locks that restrict access to only well operators and emergency personnel. This provision is only applicable if surface activities are involved.

(12) *Restoration*. Upon cessation of the use of the oil or gas well, the operator shall remove all well equipment, underground lines, and any structures related to the oil and gas activities, and restore said area to the same (or improved) condition that existed prior to the start of the drilling activities.

(13) *Nuisance mitigation*. The drilling, completion, or operation of oil or gas wells, or other wells drilled for oil or gas exploration purposes, including any horizontal drilling lines, shall comply with all parts of this Zoning Code, including article 23, performance standards, which address potential nuisances such as noise, smoke, dust, open storage, fire and explosive hazards, odors, wastes, and vibration. Due to the unique nature of this type of operation the following additional information and standards will be required.

a. *Noise*. Prior to the issuance of a permit and the commencement of operations, the petitioner shall submit a noise management plan, as approved by the city, detailing how the equipment used in the drilling, completion, transportation, or production of a well complies with the maximum permissible noise levels of the Zoning Code. The operator shall be responsible for verifying compliance with this section and the noise management plan after the installation of the noise generating equipment. The noise management plan shall include:

1. Identify operation noise impacts;

2. Provide documentation establishing the ambient noise level prior to construction;

3. Detail how the impacts will be mitigated. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:

i. Nature and proximity of adjacent development, location, and type;

ii. Seasonal and prevailing weather patterns, including wind directions;

iii Vegetative cover on or adjacent to the site; and

iv. Topography.

b. *Dust, vibration, and odors*. All operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices defined by the Michigan Department of Environmental Quality (MDEQ) for the production of oil, gas and other hydrocarbon substances in urban areas. All equipment used shall be constructed and operated so that vibrations, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any drilling or production site or from anything incidental

thereto, and to minimize the annoyance of persons living or working in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly, or unsafe.

c. *Vehicle routes for truck traffic*. Commercial vehicles and trucks, excluding pick-up trucks, associated with construction, drilling, production operations and transport vehicles shall be restricted to Class A roads designated by the city department of public works. Said vehicles shall have all necessary state and/or federal permits for such uses, a copy of which shall be provided to the city public works director before operation on any city road. A vehicle route map shall also be provided to the public works director in advance and shall not be deviated from without prior approval of said director.

d. *Emergency response plan*. Pursuant to state and federal law, the operator shall provide any information necessary to assist the city fire department and police department with an emergency response plan and hazardous materials survey establishing written procedures to minimize any hazard resulting from the operation.

e. *Waiver of requirements*. The planning commission may waive any of these required showings if deemed inapplicable due to the nature of the activities sought for the particular property.

(14) *Inspection*. The building official, and any other designee of the city manager, shall have the right and privilege at any time to enter upon the premises covered by any permit issued pursuant to this section for the purpose of making inspections thereof to determine if the requirements of this section or of any other code or ordinance of the city are met. The cost of any and all monitoring and inspections conducted by the city shall be borne by the applicant. The failure to pay said costs may result in the revocation of the permit.

(15) *Operator information and incident reporting*. The operator shall notify the city of the following:

a. Any changes to the name, address, and phone number of the operator within five working days after the change occurs;

b. Any changes to the name, address, and phone number of the person(s) designated to receive notices from the city within five working days after the change occurs; and

c. Any "incident reports" or written complaints submitted to the Michigan Department of Environmental Quality (MDEQ), the supervisor of wells, or other regulating agency within ten days after the operator has notice of the existence of such reports or complaints.

(16) *Injection wells*. Injection wells used for brine disposal or other chemicals from production wells or from other sources are expressly prohibited within the city.

(17) *Pipelines*. No operator shall excavate or construct any lines for the conveyance of fuel, water, oil, gas or petroleum liquids on, under, or through the streets, alleys or other properties owned by the city without an easement or right-of-way license from the city.

(18) *Insurance*. No drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration shall occur until the operator provides the city with a copy of operator's certificate of insurance for general commercial liability and pollution/environmental liability in an amount deemed appropriate under the particular circumstances by planning commission, but in any event not less than $2,000,000.00, covering the oil and gas well activities covered under the issued permit. Said insurance shall be placed with an insurance company acceptable to the city and shall remain in place so long as said activities are occurring. A copy of all renewals shall be sent to the city manager at least 30 days before the policy expiration.

(19) *Indemnification and hold harmless*. No drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration shall occur until the operator provides the city with a signed copy of the city's standard indemnification and hold harmless provisions pertaining to any and all activities occurring under the issued permit.

(20) *Cash bond*. No drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration shall occur until the operator provides the city with a cash bond in the amount of $250,000.00

per well and per horizontal drilling location to cover potential damage to roads and city property, and to ensure site restoration. Such bond shall be placed with a bonding company or other financial institution acceptable to the city.

(21) *Notice to adjacent properties*. At least 30 days prior to drilling a permitted oil or gas well and/or horizontal drilling location, the operator shall provide written notice to all property owners within 2,000 feet of the boundaries of the parcel upon which the well will be located, or through which horizontal drilling activities will be located, identifying:

a. The general description of the operations and equipment to be used;

b. Contact information of the operator; and

c. Anticipated duration (hours and dates) of installation.

(22) *Construction.* All drill site construction, grading, and installation of erosion and sedimentation controls shall be done in compliance with the city's regulation of construction activities.

(23) *Violations.* Should any permit holder and/or applicant having received approval as required by this section be determined by the city administration to have either violated this or other city ordinances, permit requirements or any planning commission condition of approval, a presumption shall arise such violation occurred and such persons must show cause before the city council that such a violation did not occur or, alternatively, that circumstances existed which should excuse the violation and/or lack of advanced notice to the city of the deviation. If city council concurs that a violation was committed, it may take any and all actions permitted under the City Code to address ordinance violations including, but not limited to, seeking injunctive relief in the court system and revoking or suspending the permit. Notwithstanding the foregoing, the city may issue an order to immediately stop any offending activities on the site if it deems that waiting for city council to take action is not in the best interest of the public health, safety and/or welfare to do so.

(Ord. No. 2015-07, 4-13-2015)

Sec. 2131. Smoking and smoking retail products regulations.

(a) *Purpose and intent.* On May 1, 2010, the Dr. Ron Davis Smoke-Free Air Law ("Smoke-Free Law") went into effect. The Smoke-Free Law, inter alia, prohibited smoking in numerous types of buildings, and generally including most places of employment. Smoking is defined in section 333.12601(r) of the Michigan Compiled Laws as the burning of a tobacco product. "Tobacco product" is defined in section 333.12601(t) of the Michigan Compiled Laws as a product that contains tobacco, including cigarettes, noncigarette smoking tobacco, smokeless tobacco and cigars. The purpose of the Smoke-Free Law was to preserve and improve the health, comfort, and environment of the public by limiting exposure to secondhand smoke.

At the time of the enactment of the Smoke-Free Law, other types of smoking, such as hookah, vaping and e-cigarettes, were either not in existence, or were in their infancy, or simply not prevalent. Thus, these other forms of smoking may not have been considered for direct inclusion in the Smoke-Free Law as they are not specifically identified therein, other than being applicable if tobacco is utilized. City council has been presented with significant evidence and concern from its police department of the wide use and abuse of such methods of smoking by younger individuals. Such use often involves not always knowing what products, chemicals and substances are being ingested. Having a significant distance between schools and establishments that sell smoking products and equipment is desirable in an effort to reduce the access of such products to underage persons.

The city believes that for the same reasons the Smoke-Free Law was enacted, other forms of smoking in areas that are likely to expose the public to second hand smoke should likewise be prohibited. One such area identified as a like source of second hand smoke is in multiple tenant commercial buildings. In such situations, smoke from adjacent tenant spaces can permeate through ventilation systems, walls, floors and ceilings. Such permeation can lead to negative health environments beyond the walls of the tenant space where the smoking occurs. Thus, for health, safety and welfare of the general public entering such establishments and/or adjacent

units, the city believes that smoking of any substance should be prohibited from multiple unit commercial buildings. Single tenant buildings pose less of a concern, not because the substances are less harmful in any way, but persons in single tenant buildings are either the ones utilizing the products or otherwise have the choice to patronize said establishment, whereas employees and invitees of adjacent spaces are not in the same position. Any such regulation in this section is in addition to any other state, federal or local laws that would otherwise restrict or prohibit smoking of any substances. This section is in no way authorizing indoor smoking of any product.

(b) *Prohibition of smoking in multiple tenant buildings.* The city hereby prohibits smoking of any substance and the use of any smoking devices, products and equipment within a multiple tenant commercial, retail or industrial building. Said prohibition applies whether or not the smoking involves tobacco, and whether or not smoking is intended to be a specific use of the property or simply incidental to an otherwise permitted use.

(c) *Smoking and litter in entrances.* Businesses shall prohibit employees and patrons from smoking within 25 feet of any entrance, open windows or exterior ventilation intake components. Further, businesses shall be responsible for removing all smoking related refuse located on the business property, including from all entryways and other areas open to the public.

(d) *Businesses selling smoking products and equipment.*

(1) *Permitted location.* The wholesale or retail sale of smoking products (including but not limited to tobacco, nicotine substances, hookah, oils, vapor products, and smoking herbs) or smoking equipment (including but not limited to electronic cigarettes, hookah pipes, electronic cigar/cigarillo, vapor cartridge, bongs, rolling papers, etc.) as a principal use is permitted as a general retail use, but is not permitted in a building that fronts or has an address on University Drive or Main Street.

(2) *Distance requirements from schools.* Businesses whose principal use is the selling of smoking products or smoking equipment devices shall not be located within 500 feet of a school (accredited by the state department of education) servicing students (pre-school through 12th grade), Elizabeth Park, Halbach Field, Howlett Park, Municipal Park, Scott Street Park, the Rochester Hills Public Library, or the Rochester Area Recreation Authority as such locations are public areas where a significant number of underage persons are likely to be located.

(3) *Underage admittance.* Businesses whose principal use is the selling of smoking products or equipment shall not permit persons under the age of 18 into said establishment without a parent or guardian.

(4) *Principal use determination.* For purposes of this section, the determination of whether the business's "principal use" is the sale of smoking products or smoking equipment shall be made by the planning commission. Such determination shall be based on various factors including, but not limited to, whether such a sale is a primary or main product being offered for sale, the ratio of likely sales as compared to other products, how the business or products are advertised or offered for sale, city planner information and comments, and information regarding other similar businesses in the area.

(Ord. No. 2018-02, 4-9-2018; Ord. No. 2018-03, 4-9-2018)

Sec. 2132. Temporary sales trailers.

Temporary sales trailers may only be permitted as a non-transferable ~~special exception~~conditional use and only when incidental to a construction development that has been, or is concurrently being, approved by the city, subject to the following special standards:

(1) Temporary sales trailers are only permitted on the same property as the underlying development absent a sufficient showing to the planning commission that said placement on-site is not practical.

(2) Temporary landscaping in the sales trailer vicinity may be required by planning commission and shall be installed prior to utilization of the sales trailer by the public or contractors.

(3) For placement of temporary sales trailers for more than 30 days, not less than five paved parking spaces must be provided adjacent to the trailer, with at least one being ADA compliant.

(4) Temporary sales trailers must have self-contained bathroom facilities that are part of the trailer (not porta-johns).

(5) Temporary sales trailers shall be permitted for not more than one year from the date of ~~special exception~~conditional use approval. Extension requests beyond one year must be brought back to the planning commission for re-approval.

(6) The area around the temporary sales trailers must be kept in a safe, clean, and orderly condition at all times. All trash and refuse must be removed off-site by the developer.

(7) Temporary sales trailers must be removed, and the property restored to the original condition (or as may otherwise be approved by the planning commission), within 30 days of the end of the sales period, or by the end of the approved term, whichever occurs first. If any curb cuts were created or modified, the developer shall restore the original condition and configuration.

(8) Developer must post a cash bond with the city in an amount deemed appropriate by the city to ensure that full restoration of the property is completed once the temporary sales trailer is removed.

(9) Off-site temporary sales trailers are not permitted in single family residential districts R-1 through R-5, multiple family residential districts, downtown core district, downtown edge 1 and 2 or the transition district.

(Ord. No. 2018-06, 8-27-2018)

ARTICLE 22. SIGN REGULATIONS

Sec. 2200. Purpose.

(a) It is the purpose of this article 22 to provide for proper identification of businesses and institutions; to enable the public to locate goods, services and facilities without difficulty and confusion; to prevent wasteful use of resources as a result of competition among businesses for attention; to prevent an unsafe, impeded or unpleasant condition to occur on city sidewalks where pedestrians and/or motorists are exposed to moving, distracting, cumbersome or otherwise inappropriate signage; and to promote the continued attractiveness of the City of Rochester and its traditional business district and business and office corridors. It is further determined, following an evaluation of traffic conditions, that to allow an excessive number of signs in the city would be unduly distracting to pedestrians and motorists, thereby creating a hazard for pedestrians and motorists using city streets, and may reduce the effectiveness of signs needed to direct the public on those same streets. The regulations of this article 22 are determined to be the minimum regulations necessary to achieve its purposes.

(Ord. No. 2009-20, § 2200, 10-26-2009)

Sec. 2201. Definitions.

The following words shall have the meaning set forth in this section when they are used in this article 22.

Awning end cap sign means a pedestrian-oriented sign that is applied to the vertical portion of an awning that projects perpendicular to the building.

Clear vision area is formed by two lines each 25 feet long measured along the right-of-way from the point of intersection of two streets and connected by a third line to form a triangle.

Corner building means a building with frontage on any two streets or a building at the corner of any street with the West Alley or the East Alley in the downtown.

Display window shall include any window area designed to permit customers outside the building to view merchandise inside a store or that displays store merchandise in a specially designed area immediately inside the window glass, whether or not the rest of the store interior is visible.

Hanging sign means a pedestrian-oriented sign that is hung beneath a canopy or awning.

Icon sign means a pedestrian-oriented sign that advertises a particular good or service by of a symbol associated with that good or service, i.e., a mortar and pestle to represent a pharmacy.

Illuminated tube means a transparent tube in which the light source is supplied by electrified gas.

Illuminated tube band means an illuminated tube, such as but not limited to neon, fluorescent, and the like, which is located on a window, architectural feature, or which is shaped, formed or located to outline or accent an area of a sign, window or structure. An illuminated tube band shall constitute a sign.

Illuminated tube sign means a sign which is illuminated wholly or in part with illuminated tube.

Ladderboard sign means a sign for a single tenant space or a multi-tenant building that lists goods, services, and the like on a series of separate panels which may or may not be changeable. A ladderboard sign shall also include a sign for a multi-tenant development with separate identification panels for more than three tenants.

Master sign plan means a drawing or set of drawings for a multi-tenant building that sets forth the general size, location, number, height, material types, illumination details, messages, and shapes of the signs capable of displaying the name of the development and the names of the individual tenants.

Multiple street frontage (other than corner buildings) means any building on a double frontage lot or any building with frontage on one street as well as the East Alley or West Alley in the downtown.

Multi-tenant building means any office, retail, or industrial building with two or more separate tenant spaces.

Multi-tenant sign means a sign for a multi-tenant building displaying only the names of not more than three tenants.

Nameplate sign means a permanent, non-illuminated, identity sign, used to direct customers to the entrance of a Main Street business in the CBD zone that is only accessible from a side of the building other than the one on which the sign has been placed.

Pedestrian-oriented sign mean a sign that is oriented or scaled to the pedestrian rather than the motorist, such as hanging, projecting, icon, and awning end cap signs.

Permanent window and door signs refers to signs affixed or painted in a manner that is visible from the exterior of the building intended to exist for the duration of time that the use or occupant is located on the premises. Any sign located within the store within four feet of the display windows shall be considered a window sign.

Projecting sign means a pedestrian-oriented sign that projects perpendicular from a building.

Replacement sign means the lawful replacement of a sign panel within an existing sign or sign structure that does not increase sign area or otherwise modify the size of the sign.

Signable area means the spaces on the building facade with a continuous flat surface, void of windows, doors, or architectural details and typically found between the top of the first floor windows and the bottom of the second floor windows or between the roof cornice and the top of the windows below.

Temporary and permanent banners refers to any plastic film, paper, cloth or similar material and its associated message area that is designed to be tied, or otherwise fastened to a building or other structure so as to constitute a sign.

Temporary sign shall mean any sign constructed of cloth, canvas, fabric, plastic, paperboard or other light temporary materials, with or without a structural frame, or any other sign, intended or suitable for a temporary or limited period of display.

Temporary window sign means any paper, poster board, plastic film, cloth or similar material and its associated message area that is designed to be placed on or behind a display window for 14 days or less and visible from outside a business building.

Temporary political sign means any sign the display surface of which is primarily constructed of cloth, canvas, fabric, paper board or other light material intended or suitable for only a temporary period of display, and advertising a candidacy for political office or a proposition to be voted upon.

Window means any opening in any wall of a building or structure for the admission of light, made of a transparent, translucent, or opaque material, through which or upon signage may be viewed or placed. The term shall specifically include display windows as herein defined.

(Ord. No. 2000-06, pt. 1, 7-24-2000; Ord. No. 2008-02, art. 1, 1-28-2008; Ord. No. 2009-20, § 2201, 10-26-2009; Ord. No. 2016-12, 9-26-2016)

Sec. 2202. General requirements.

The following general requirements shall apply to all signs in every zoning district within the City of Rochester.

(1) Only on-site signs are permitted.

(2) The calculation of sign surface area shall include: the sign frame; any sign member or support which is illuminated or bears advertising matter, symbols, logos, or similar decorations associated with the business identified thereon. For a multiple sided sign for which a total allowable sign area limitation exits, the total surface area for all sides of the sign is included when determining whether such sign is permitted.

(3) Every sign shall be effectively attached to a building, other permanent structure, or the ground with the exception of permitted portable signs.

(4) All illuminated signs shall be so placed as to prevent the rays and illumination therefrom from being cast upon neighboring residences within a residential district and shall be located not less than 100 feet from such residential district.

(5) The color saturation and hue of illuminated signs shall be such as to preclude confusion with traffic signals.

(6) All signs shall conform to the regulations as set forth in this ordinance, and any sign or billboard not conforming thereto shall be deemed a nonconforming structure subject to the provisions of article 4.

(7) No sign shall be located or placed on any property or building in a manner that interferes with the driver of an automobile having proper visibility of pedestrians or automobile traffic.

(8) No sign, except those for emergency service purposes established and maintained by the city, county, state or federal government, shall be located in, project into, or overhang a public right-of-way or dedicated public easement, except as provided in section 2207 for signs in CBD and B-1 districts and in section 2211(11)b. The city manager is authorized to cause the removal of any signs posted or placed in any public right-of-way, provided any such sign shall be kept for a period of 60 days for pick-up by any person who might claim it, and thereafter may be destroyed by the city.

(9) All emergency service purpose directional signs required for the purpose of orientation, when established by the city, county, state or federal government, shall be permitted in all use districts, and may exceed six feet in height.

(10) Because they are designed to attract the customer's attention, illuminated tube bands and illuminated tube signs are signs as defined herein and shall cause the entire surface area of the sign, window or other area outlined by illuminated tube to be included in calculations of sign area unless:

a. The illumination tube is located only along one side of a display window or opening; or

b. The illuminated tube is enclosed or shielded so that it serves as a light source to illuminate merchandise or an architectural feature but is not a primary attraction itself.

All illuminated tubes shall be detailed on building elevation plans for site plan review and on all plans included in any application for a sign permit.

The sign official, during the review of the site plan and proposed signage, may review any illuminated tube to ensure compatibility with the design of the proposed structure(s) and of those in the general vicinity. The sign official may require modification to the design, location, size, color or intensity of proposed illuminated tube to ensure compatibility with on-site or adjacent buildings or uses. The sign official shall adhere to the criteria in sections 2202(11) and 2704(2) when reviewing plans for conformance with this section.

(11) Materials chosen and design selected for signs shall be consistent with the architectural design of the building they identify.

(12) All signs shall be maintained in a condition similar to that which existed at the time of their erection. At the least, all signs and all awnings with sign components shall be kept clean, free of missing or loose parts, free of blistering or peeling paint, and without missing or obsolete sign panels.

(13) All sign owners shall complete a form, provided by the city, indicating the name, address and phone number of the person responsible for maintenance of the sign. At the request of the city, any sign owner shall update the information provided on this form from time to time.

(14) Freestanding signs shall be set back at least ten feet from all lot lines except for traffic control signs in parking lots. The maximum height of all freestanding signs shall be six feet, unless otherwise provided in this article 22.

(15) Entire awnings shall not function as signs. Awnings shall not be backlighted. Illumination of signs on awnings shall be by means of external, downward-directed light fixtures. Nothing in this article shall prohibit awnings that incorporate a logo, name, or panel identifying the business use, provided it conforms with all other requirements for signs contained in this ordinance.

(16) When a sign is to be replaced, it shall thereafter conform to all requirements of the zoning ordinance. This shall not prevent the lawful continuance of nonconforming signs that were legally established prior to the current requirements of the zoning ordinance and/or the sign design guidelines. The following provisions shall apply to replacement of panels and signs intended to replace nonconforming signs:

a. The owner of a nonconforming sign may replace a panel or face of the sign in order to identify a new tenant or occupant from the same use category provided the sign is not enlarged or otherwise made more nonconforming. Approval of replacement panels may be granted by the sign official, if they conform to the city ordinances and administrative guidelines established from time to time by the planning commission. All signs located within the Downtown Development District shall also require review by the DDA director.

b. The replacement of a nonconforming sign or signs with a sign that conforms to the current requirements of the zoning ordinance and the sign design guidelines may be approved by the sign official, following review by the DDA director if the sign is located within the DDA district.

(17) No sign shall be erected within the clear vision area.

(18) One sign shall be permitted at each point of ingress and egress to a parking lot to indicate the operator, parking rates, and directions of movement. Each such sign shall not exceed ten square feet in area, shall not extend more than four feet in height above grade, and shall be entirely on the parking lot property.

(19) All signs that are obsolete, due to discontinuance of the business or activity advertised thereon, shall be removed within 30 days of the close of said business or activity.

(20) The above regulations apply to signs in all districts. Where the district regulations below establish more stringent requirements, they shall apply.

(Ord. No. 2009-20, § 2202, 10-26-2009; Ord. No. 2010-12, § 2202, 5-10-2010)

Sec. 2203. Prohibited signs and sign features or components.

The following signs are prohibited, notwithstanding anything to the contrary in this ordinance:

(1) Signs which incorporate in any manner or are illuminated by any flashing or moving lights, or where any illumination can shine directly into the eyes of any occupant of any vehicle traveling upon any highway, driveway or parking area, or into any window of any residence within 200 feet, or where the illumination interferes with the visibility or readability of any traffic sign or device.

(2) Exterior banners, pennants, strings of flags, spinners and streamers. Temporary banners for city-sponsored events are exempt from this requirement when posted 45 days or less.

(3) Exterior string lights used in connection with a commercial premises, other than holiday decorations used from the day after Thanksgiving through the following January 15.

(4) Any sign which has any visible motion, moving or animated parts or image, whether movement is caused by machinery, electronics, wind, or otherwise, except for minor elements of clocks or thermometers.

(5) Any sign which is structurally or electrically unsafe, or which obstructs any fire escape.

(6) Any sign erected on a tree or utility pole except signs of any political subdivision of this state.

(7) Any business sign, sign structure or frame now or hereafter existing which no longer advertises a bona fide business conducted or a product offered for sale, or no longer contains a sign.

(8) Portable signs. Any freestanding exterior sign not permanently anchored or secured to either a building or the ground, including sandwich boards, plastic message boards on wheels, and the like, except as permitted by section 2207(3)e. Temporary portable signs for city-sponsored events are exempt from this requirement when posted three days or less.

(9) Any sign on a motor vehicle or trailer which is parked at a location visible from a public street and intended to attract attention for the business, product or service identified on the sign.

(10) Roof signs or any sign which projects more than one foot above the roof line.

(11) Any sign erected on any property, public or private, without the consent of the owner or occupant thereof.

(12) Any sign which simulates or imitates in size, color, lettering, or design, any traffic sign or signal or other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse the drivers of motorized vehicles.

(13) Any sign which incorporates any open spark or flame unless specifically approved by the building department.

(14) Phone numbers on signs, except on temporary "For Sale" or "For Lease" signs.

(15) Backlighted awnings.

(16) Entire awnings designed as signs.

(17) Message board signs except as provided in section 2209.

(18) Pylon or pole-mounted signs.

(19) Ladder board signs.

(Ord. No. 2006-12, 11-28-2006; Ord. No. 2009-20, § 2203, 10-26-2009)

Sec. 2204. Permitted signs in residential districts.

In residential districts, signs are permitted as follows:

(1) For ~~special exception~~conditional uses in one- and two-family districts: one sign not exceeding 20 square feet in area.

(2) For principal uses in mobile home park and multiple-family districts (such as an apartment or condominium complex): one sign not exceeding 30 square feet in area.

(3) For public buildings, churches, schools and other institutional buildings in residential districts the provisions of section 2209 apply.

(4) For subdivision developments: one permanent subdivision identification sign not exceeding 30 square feet in area. The sign official may approve additional subdivision entrance signs where it finds affirmatively to at least one of the following criteria:

a. The subdivision has principal entrances from two or more major arterial streets.

b. The subdivision has more than one boulevard street entrance from an existing arterial.

c. The subdivision is physically divided by an existing major arterial street.

d. Major entrances from the same arterial street are separated by at least 330 feet.

(5) For new residential developments: one temporary sign advertising the sale of dwellings therein not exceeding 50 square feet in area. Permits for temporary development signs shall expire after two years or when the last unit is sold, whichever shall occur first, and shall require a cash performance deposit of $100.00 to guarantee removal of the sign.

(6) One trespassing, safety, or caution sign not exceeding two square feet in area shall be permitted for each 200 lineal feet of perimeter lot line.

(Ord. No. 2009-20, § 2204, 10-26-2009; Ord. No. 2010-12, § 2204, 5-10-2010)

Sec. 2205. Permitted signs in limited office (O-1) and restricted office (O-2) districts.

In O-1 and O-2 districts, signs are permitted as follows:

(1) One primary business identification sign per building.

(2) Window accent signs for permitted retail businesses subject to section 2207(3)c.

(3) Total allowable sign area, per building, shall be 15 square feet for a one-sided sign and 30 square feet for a two-sided sign. The larger side of a two-sided sign shall not exceed 15 square feet. This requirement may only be modified by sections 2208(b) and 2208(c) of this ordinance.

(4) Any illuminated sign shall have the illumination source completely enclosed within the sign, unless the lighting equipment is designed as an integral part of the display. This means that the lights themselves are not visible and will in no way interfere with driver visibility or project onto adjoining property.

(Ord. No. 2009-20, § 2205, 10-26-2009)

Sec. 2206. Permitted signs in research park (RP) and industrial (~~I-1~~LI ~~and I-2~~) districts.

In ~~RP, I-1, and I-2~~RTECHRP and LI districts, signs are permitted as follows:

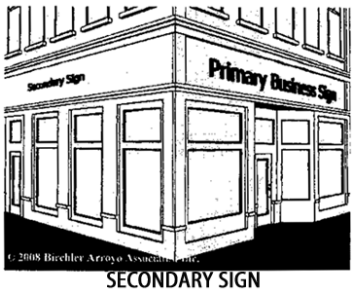
(1) One business identification sign per building.

(2) Window accent signs for permitted retail businesses subject to section 2207(3)c.

(3) The total surface area of all signs per building, including advertising signs in parking lots, shall not exceed ten percent of the wall surface area facing the front lot line or 100 square feet, whichever is less. This requirement [may only be modified by] sections 2208(b) and 2208(c) of this ordinance.

(Ord. No. 2009-20, § 2206, 10-26-2009)

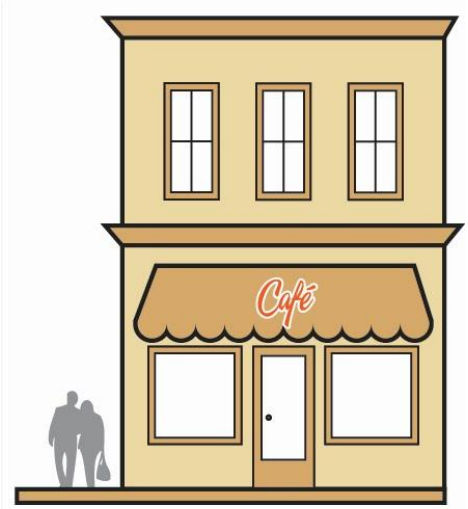
Sec. 2207. Permitted signs in CBD, DE-1, DE-2, T, MU, MU-1, and B-1~~general business (B-1) and central business (CBD) commercial and MU~~ districts.



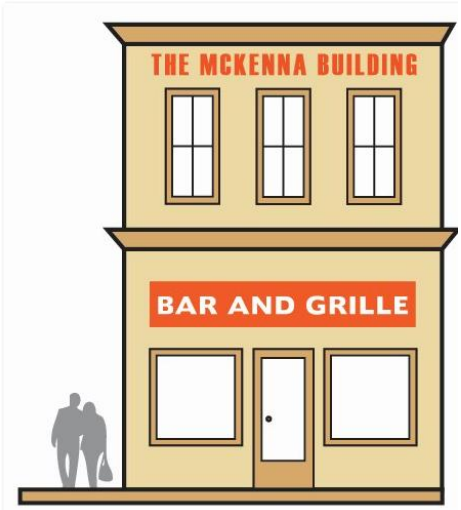
SECONDARY SIGN



Window Sign



Awning Face Sign



Wall Sign

PRIMARY & SECONDARY BUSINESS SIGNS

In ~~B-1 and CBD~~ CBD, DE-1, DE-2, T, MU, MU-1, and B-1 districts, signs are permitted as follows:

(1) One primary business identification sign per building.

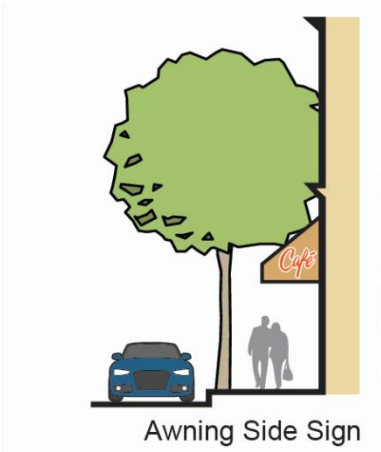
Permitted types of primary business identification sign:

Sign Type	*B-1*	*CBD*	*DE-1*	*DE-2*	*T*	*MU*	*MU-1*
Wall sign	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted
Awning sign	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted
Window sign	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted
Freestanding sign	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted

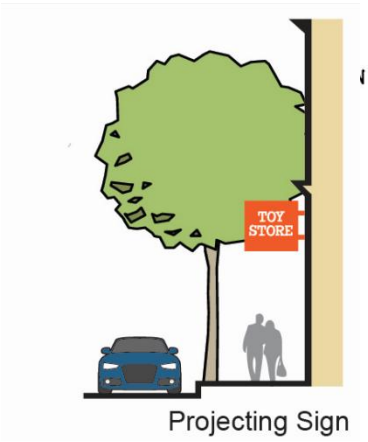
In the CBD, DE-1, DE-2, T, MU, MU-1, and B-1~~B-1 and CBD~~ districts, an individual business may have a freestanding sign only if the business occupies the entire building or if it is one of three tenants displayed on an approved multi-tenant sign.

(2) One secondary business identification sign per building with a separate side or rear customer entrance as permitted by sections 2208(b) and 2208(c) of this ordinance.

(3) Subordinate signs as follows:



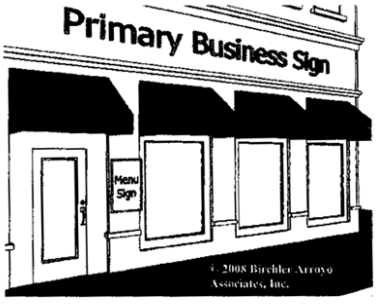
Awning Side Sign



Projecting Sign



DOOR SIGN



MENU SIGN

a. One permanent pedestrian-oriented (hanging, projecting, icon, or awning end cap) sign per customer entrance. Each permanent pedestrian-oriented sign shall not exceed four square feet in

area per side (maximum eight square feet total for both sides), and must be at least seven feet above the sidewalk.

b. One door sign per customer entrance to convey the name of the premises, the name of the owner and/or the occupant of the premises, street number and address, phone number, hours of operation, credit cards accepted and similar information. Each door sign shall not exceed two square feet in area and shall be exempt from the calculation of total allowable sign area. The door sign may be lettering applied to the glass or may be a panel affixed to the door or on the wall within 12 inches of the door.

c. Window accent signs may be permitted on the same sides of the building as the approved primary and/or secondary signs to either identify the business name, products, and services of the primary business or identify the name of a second business that is owned/operated from the same premises, as follows:

1. Window accent signs used to identify the primary business name, products, and services of the primary business shall comply with the following:

(i) Letter height shall not exceed eight inches.

(ii) The number of lettering styles should be limited and simple typefaces shall be used.

(iii) Message shall include not more than two lines of copy.

(iv) No message may be mentioned more than once per elevation. The sign official may issue a waiver to allow redundancy where it is determined that the quality of the sign is not negatively impacted.

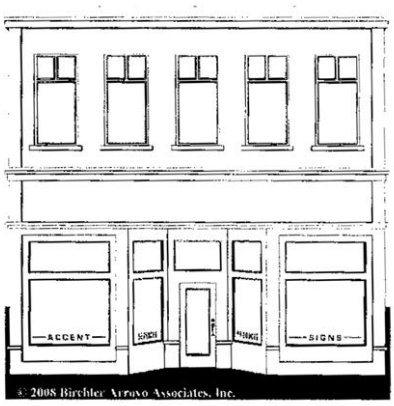
(v) Message shall be placed only within the top 25 percent or bottom 25 percent of any window.

(vi) Window accent signs shall not exceed ten percent of each individual window up to a maximum of eight square feet per window and a total of 25 square feet per building facade.

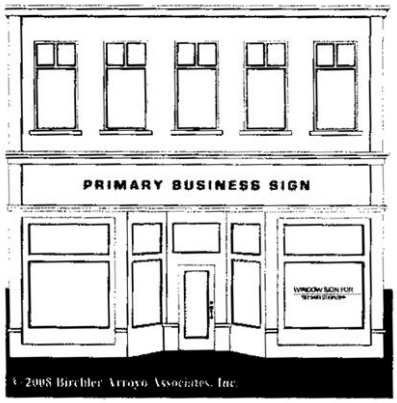
WINDOW ACCENT SIGNS



WINDOW ACCENT SIGN PLACEMENT
(for primary business)



ACCENT WINDOW SIGN
(for primary business)



WINDOW ACCENT SIGN
(for secondary business

2. Only one window accent sign used to identify the name of a second business that is owned/operated from the same premises by the primary business owner/operator may be permitted on the same building facade.

3. All window accent signs shall be designed and located in a manner that will enhance the appearance of the business and shall comply with the following:

    (i) All window signs shall not exceed ten percent of the total area of all windows located on the same side of the building up to a maximum of 25 square feet per building facade.

    (ii) Allowable colors include only black, white, gold or a combination of not more than two of these colors. Corporate logos and graphic designs using different colors shall be considered on a case by case basis. The sign official may evaluate the colors based upon compatibility with the design of the building and window displays, and visibility and legibility of the information proposed.

    (iii) All window signs shall consist of high quality durable materials. Floating neon, applied vinyl, etched glass and painted images with appropriate design features shall be considered.

    (iv) Window signs shall not obscure the visibility of the store interior or its merchandise displays.

    (v) Phone numbers are prohibited.

    (vi) Borders around or adjacent to and backgrounds behind window sign lettering shall count toward the total sign area.

d. One menu sign per approved restaurant with table service as follows:

    1. Menu signs shall be located in a permanently mounted display box on the surface of the building adjacent to the entry.

    2. Menu display boxes shall be constructed of high quality materials, and their size, location, and design shall be appropriate to the character and architectural detail of the building and the character of the restaurant.

    3. Menu signs, including display box, shall not exceed six square feet in area.

e. One portable pedestrian-oriented sign per building in the CBD District as follows:

1. Portable pedestrian-oriented signs, such as A-frame or sandwich board signs, shall be of one of the following designs: wooden or metal A-frame signs with open bases or shaped silhouette signs made of wood, metal, or similar durable material. Glass, breakable materials, paper, laminated paper, vinyl, plastic, PVC pipe frames, and the like are not permitted materials.
2. Portable pedestrian-oriented signs shall be uncluttered with minimum text. Logos and graphics are encouraged.
3. Portable pedestrian-oriented signs shall not be permanently affixed to any object, structure, or the ground.
4. Portable pedestrian-oriented signs shall not exceed four feet in height nor eight square feet in area.
5. A minimum walking path of five feet shall be maintained on all public sidewalks.
6. Portable pedestrian-oriented signs shall be taken indoors at the close of each business day.

f. One nameplate sign per business located in a building fronting on Main Street, including the East Alley and West Alley, within the CBD Zoning District, subject to the following:

1. Nameplate signs shall be located on either the Main Street or Alley side of a building, placed between five and seven feet above the sidewalk and shall not be located on the same side of the building as the entrance to the business.
2. Nameplate signs shall be used to identify only the name and location of the business. Location information may include the address, entrance in rear, entrance from Alley, entrance from Main Street, or the like.
3. Nameplate signs shall be a standard size of 12 inches high by 12 inches wide, constructed of bronze relief, with standard raised black lettering and shall be ordered from a private vendor, coordinated through the Rochester Downtown Development Authority.
4. Placement of more than one nameplate sign on a given building shall require approval of the city administration.

(4) The total surface area of all signs per building, including advertising signs in parking lots, shall not exceed ten percent of the wall surface area facing the front lot line or 100 square feet, whichever is less. This requirement may only be modified by sections 2208(b) and 2208(c) of this ordinance.

(5) A primary or secondary business sign attached to the front wall of a building may project not more than one foot into the public right-of-way. Approved pedestrian-oriented signs and approved signs located on awnings are exempt from the one-foot limit.

(Ord. No. 2000-06, pt. 2, 7-24-2000; Ord. No. 2008-02, arts. 2—4, 1-28-2008; Ord. No. 2009-20, § 2207, 10-26-2009; Ord. No. 2010-12, § 2207, 5-10-2010)

Sec. 2208. Additional standards for signs in all nonresidential districts.

(a) *Multi-tenant buildings.* All multi-tenant buildings in nonresidential districts shall submit a master sign plan as part of their site plan approval package. The master sign plan shall demonstrate the following characteristics:

(1) Any freestanding sign shall be designed primarily for identification purposes and shall display only the development name and/or address. The freestanding sign may display only the names of not more than three tenants. Freestanding signs are prohibited in the CBD District.

(2) Where individual tenants have their own front wall surface, the individual business signs shall be wall-mounted, in a consistent fashion throughout the multi-tenant building.

(3) Shall not include traffic-oriented signs with large amounts of information.

(4) Directory signs, located at common entrances to tenant spaces, are encouraged, however, they shall be included in the calculation of total sign area unless they are six square feet or less and not visible from the front lot line.

(5) Total sign area shall not exceed 150 square feet for multi-tenant buildings with more than 60 lineal feet on the front wall of the address side.

(b) *Corner buildings.* Corner buildings, as defined herein, may have two times the sign area permitted for the shorter street frontage or 100 percent of the sign area permitted for the street frontage on the address side, whichever is greater, provided:

(1) There is a second customer entrance at the side or the rear; or

(2) There are merchandise display windows along the side street; and

(3) The bonus sign area shall be used for additional identification on the side street or at a rear customer entrance, not to enlarge the primary sign; and

(4) Total sign area shall not exceed 100 square feet.

(c) *Other buildings with multiple street frontage.* Other buildings with multiple street frontage, that is buildings other than corner buildings which buildings have frontage on one street and a public alley or double-frontage lots as defined in this zoning ordinance, may calculate allowable sign area as follows:

(1) If the building has front and rear customer entrances, then 100 percent of the front street wall area may be counted plus 25 percent of the rear (secondary) street wall area; or

(2) If the building has front and rear customer entrances and rear display windows then 100 percent of the front street wall area may be counted plus 50 percent of the rear (secondary) street wall area; and

(3) The bonus sign area shall be used for additional identification at the rear customer entrance, not to enlarge the primary sign; and

(4) Total sign area shall not exceed 100 square feet.

(d) *Two-story business buildings.* Two-story business buildings shall reserve two-thirds of their allowable sign area for tenants on the first floor and one-third for tenants on the second floor.

(e) *General requirements.* All business signs shall comply with the color, materials, lettering, content, legibility, and signable area requirements of the City of Rochester sign design guidelines.

(f) *Temporary window signs.* Not more than 25 percent of the area of any window shall be occupied by temporary window signs. Temporary window signs shall be placed only within the top 25 percent or bottom 25 percent of any window. No temporary window sign shall be displayed for longer than 14 days nor shall it be used solely to display a product name nor shall the same message be displayed more than four times each year. Temporary window signs shall be permitted only for one of the following purposes:

(1) Temporary new business announcement. Temporary new business announcements only may be displayed longer than 14 days if the business is open and while their current sign permit application is pending.

(2) An advance announcement of a new business, such as an "opening soon" message.

(3) Announcements for special sales, promotions, events or new services.

(4) The following shall be exempt from the requirements of this ordinance: all standard, uniform signs announcing a city-sponsored event or promotion only if distributed by the city in cooperation with the downtown development authority and/or the downtown promotions committee.

(Ord. No. 2005-05, 7-11-2005; Ord. No. 2006-12, 11-28-2006; Ord. No. 2008-03, 2-25-2008; Ord. No. 2009-20, § 2208, 10-26-2009; Ord. No. 2010-12, § 2208, 5-10-2010)

Sec. 2209. Signs for churches, schools, public and institutional buildings in all districts.

Public buildings, such as schools, city offices, libraries, community centers and other institutional uses shall comply with the following regulations in all zoning districts:

(1) Permanent signs that are part of the structure, such as engraved stone panels, cast bronze plaques and the like, may occupy not more than ten percent of the front wall surface area, to a maximum of 100 square feet.

(2) Freestanding signs and wall-mounted signs shall not exceed 30 square feet in residential zones and 50 square feet in all other districts.

(3) Public and institutional building signs located within 100 feet of an occupied residence may be illuminated during the public building's hours of operation only with the approval of the sign official. The occupants of the residences within 100 feet of the public building site shall be notified when a request for an illuminated sign has been received.

(4) If a public or institutional building requires a changeable message board, it shall be incorporated as part of the permanent sign.

(Ord. No. 2009-20, § 2209, 10-26-2009; Ord. No. 2010-12, § 2209, 5-10-2010)

Sec. 2210. Sign permit application requirements.

(a) All applications for sign permits shall be made on forms provided by the sign official and shall contain the following minimum information:

(1) A sketch indicating the location of the subject property and current zoning classification.

(2) A calculation of total allowable sign area and description of the methodology used.

(3) A scale drawing of each sign, in the colors of the finished sign, indicating the size, shape, message, lettering style, and materials of the finished sign. All required copies must also be in color.

(4) Building elevation sketches showing the position and size of each sign on the building and the location and size of any existing sign(s) on the same structure.

(5) For freestanding signs, a site plan sketch showing the sign height, location of the sign on the site, and verifying compliance with all setback requirements.

(6) If the sign will be illuminated, details regarding the location, type of fixture, color of the illumination, and method of shielding the lighting equipment to prevent glare.

(b) A master sign plan is required for new development and changes in use that require site plan approval for all multi-tenant buildings, and may be submitted by the property owner and/or 51 percent or more of the tenants of an existing building. All master sign plans shall include the following minimum information:

(1) All information required in section 2210(a).

(2) A proposal describing how and when existing tenants, whose signs are not consistent with the master sign plan, will be brought into conformance.

(c) All signs must be approved by the sign official either in conjunction with site plan or master sign plan approval, or as a separate sign permit application, unless otherwise provided for in this zoning ordinance. All signs within the Downtown Development District boundaries must also be reviewed by the downtown development director.

(d) The sign official may approve sign panel replacements, signs covered by an approved master sign plan, and signs with an area of six square feet or less in nonresidential districts.

(e) The Rochester DDA director is available to meet with applicants and assist them with design review, color and material selection and explanation of design guidelines for all sign applications, among other services. The sign official will provide application materials and instructions.

(Ord. No. 2009-20, § 2210, 10-26-2009; Ord. No. 2010-12, § 2210, 5-10-2010)

Sec. 2211. Signs allowed without a permit.

The following signs are allowed to be erected or maintained without a permit provided they comply with the following regulations and applicable construction standards of common carriers.

(1) Signs posted by duly constituted public authorities in the performance of their public duties.

(2) Signs located on the rolling stock of common carriers.

(3) Signs located on motor vehicles or trailers bearing current license plates which are traveling or lawfully parked upon public highways, or parked upon any premises where the primary purpose is not the display of the sign.

(4) Portable real estate signs of six square feet or less and a maximum height of six feet, limited to one per road frontage, and advertising the sale, lease or rental of the premises on which erected.

(5) Portable real estate "open house" signs with an area not greater than six square feet and a maximum height of six feet, provided only one such sign may be located on the premises being sold.

(6) Signs for garage sales, yard sales, basement sales, rummage sales, moving sales, estate sales or other similar sales, when conducted at a residence: may be erected on private property only; are limited to two signs per sale location; may not exceed six square feet or four feet in height per sign; may not be erected for more than 12 days in any calendar year per sale location; and may not occupy a public right-of-way.

(7) A single sign for each customer entry, having an area not more than two square feet, to convey only the street number and address, hours of operation, credit cards accepted and similar information shall be exempt from the calculation of total allowable sign area.

(8) On-premises temporary window signs located inside and visible through the windows of an enclosed building, where the area of such signs does not exceed 25 percent of the window in which they are displayed, and where the display will not last longer than 14 days.

(9) Wall signs not exceeding six square feet and indicating only the date of erection of a building.

(10) The flag of any nation, state political subdivision, or governmental entity respectfully displayed.

(11) In addition to all other regulations in this article, temporary signs are permitted under the following additional conditions:

a. Temporary signs shall not be illuminated.

b. Temporary signs shall not be placed in or project into a public right-of-way.

c. Temporary signs shall only be placed on private property with the permission of the property owner.

d. Temporary signs shall have a maximum of six square feet per side, 12 square feet total for each side of the property that abuts a street.

e. Temporary signs shall not be placed in such a manner as to obstruct the view of vehicle drivers when leaving or entering a street, driveway, alley or parking space.

f. Temporary signs may not be painted on the exterior surface of any building or structure.

g. Temporary signs may not be placed closer than ten feet to the right-of-way of any street, nor shall they extend in height more than six feet above the front lot line.

h. Temporary signs may be displayed for a single 60-day period per calendar year.

i. Only one of the same temporary sign shall be permitted on each side of a property that abuts a street; multiple, repetitive temporary signage on a side of a property shall not be permitted.

j. This subsection does not supersede provisions for other signage specifically regulated in this article including, but not limited to, portable signs, temporary window signs, real estate signs and garage/yard sale-type signs.

(12) A single, temporary construction sign is permitted during actual construction in any district subject to the following:

a. A building permit is required prior to installation of all temporary construction signs. In nonresidential districts, all construction signs shall comply with the maximum sign area, maximum height, placement, and setback requirements for permitted accessory signs in the zoning district in question.

b. In residential districts, temporary construction signs for an individual residence shall not exceed a total sign area of six square feet for a one-sided sign or 12 square feet for a two-sided sign.

c. Temporary construction signs for a residential development of two or more units shall not exceed 12 square feet for a one-sided sign or 24 square feet for a two-sided sign.

d. All temporary construction signs shall be removed when construction ceases for 90 days or after a certificate of occupancy has been issued.

(13) In nonresidential districts, signs advertising buildings for sale or for lease shall comply with the following:

a. Buildings for sale or for lease may display one sign per street or alley upon which the building fronts; however, no building shall display more than two such signs.

b. Freestanding for sale or for lease signs shall comply with all setback requirements established for permanent signs.

c. Signs regulated by this section may include one square foot of sign area per foot of street and/or alley frontage, to a maximum of 30 square feet per sign.

d. Buildings with individual leasable units facing a street or alley may have one sign on the face of each leasable unit, subject to the size limitation of subsection (13)c of this section.

e. Freestanding signs regulated by this section shall not exceed six feet in height. Signs attached to the building shall not project above the roof by more than one foot.

f. Permanent signs advertising space available for lease or rent shall be displayed flat against the wall of the building and shall not exceed six square feet.

(14) Ambulatory signs, located on or carried by a person, are permitted provided the following standards are adhered to:

a. An ambulatory sign shall be no wider than 30 inches nor taller than 48 inches, in order to prevent it from becoming a hazard on the public sidewalk or to the person carrying the sign.

b. An ambulatory sign shall not be fastened to a pole or similar device designed to permit the person carrying the sign to raise it above that person's shoulder height or to wave or otherwise move the sign in a manner that might be dangerous to persons on the public sidewalk or on the public streets.

c. An ambulatory sign shall not be carried in a manner that effectively blocks or interferes with another person's use of a public or private sidewalk.

d. An ambulatory sign shall not be carried in a manner that effectively blocks or interferes with the clear vision area at any intersection of two streets or a street and a driveway.

e. An ambulatory sign shall not be carried in a manner that effectively blocks the entrance to or exit from any building.

f. An ambulatory sign shall not be carried in a manner that constitutes an offense, an annoyance or causes injury to pedestrians on the public sidewalk or drivers on the public streets.

(Ord. No. 2008-02, art. 5, 1-28-2008; Ord. No. 2008-03, § 2205, 2-25-2008; Ord. No. 2009-20, § 2211, 10-26-2009; Ord. No. 2016-12, 9-26-2016)

Sec. 2212. Review, approval and appeals.

(a) All signs must be approved by the sign official, who shall be appointed by the city manager. All signs within the Downtown Development District boundaries must also be reviewed by the downtown development director, who shall advise the sign official of any comments or concerns the director may have. Should an applicant wish to have the planning commission review the sign request after denial by the sign official, the applicant shall file such request with the planning commission within 15 days of the sign official's decision. Such a review by the planning commission shall be a full review of the sign application and not an appeal of the sign official's decision. All appeals from the planning commission's decision, and all requests for variances from the sign ordinance requirements, shall be made to the zoning board of appeals within 20 days of the planning commission's decision on the sign application. Such appeal or request for a variance shall be pursuant to section 3001 [of the zoning ordinance].

(Ord. No. 2010-12, § 2212, 5-10-2010)

ARTICLE 23. PERFORMANCE STANDARDS

Sec. 2300. [Activity or operation producing irritants to sensory perceptions.]

(a) It shall be unlawful to carry on or permit to be carried on any activity or operation or use any land, building, or equipment that produces irritants to the sensory perceptions or other physical results greater than the measures herein established which are hereby determined to be the maximum permissible hazards to humans or human activities. Such measures may be supplemented by other measures which are duly determined to be maximum permissible hazards to humans or to human activity.

(Ord. No. 2012-16, 11-12-2012)

Sec. 2301. Sound.

(a) At no point on the lot line shall the sound pressure level of any operation on the lot (other than background noises produced by sources not under the control of this ordinance, such as from essential services or street traffic) exceed the decibel limits in the octave bands designated below:

Octave Band. Center Frequency (Cycles Per *Second)*	*Maximum Permitted Sound Level (In Decibels)*	*Other District*

	Where Adjoining Residential District	
31.5	76	83
63	71	78
125	65	72
250	57	64
500	50	57
1000	45	51
2000	39	46
4000	34	41
8000	32	38

(b) No person shall ignite or discharge sound producing consumer fireworks or display fireworks on any property in the city that are audible from any residential properties, except in strict compliance with fireworks regulations of the State of Michigan and the city, including chapter 22, article III of the City Code.

(Ord. No. 2012-16, 11-12-2012)

Sec. 2302. Vibration.

(a) All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of 0.003 of one inch measured at any lot line of its source, or ground vibration which can be readily perceived by a person standing at any such lot line. No stamping machine, punch press, press break, or similar machines shall be located closer than 300 feet to a residential district without written certification by the zoning administrator that a nuisance is not thereby caused to the residential district.

Sec. 2303. Odor.

(a) The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines or to produce a public nuisance or hazard beyond lot lines is prohibited.

Sec. 2304. Gases.

(a) The escape of or emission of any gas which is injurious, destructive, or explosive shall be unlawful and may be summarily caused to be abated.

Sec. 2305. Glare and heat.

(a) Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.

Sec. 2306. Light and illumination.

It is the intent of this section to regulate exterior lighting for such things as parking lots, buildings, and signs in a manner that establishes appropriate minimum levels of illumination, prevents unnecessary glare for drivers on adjacent thoroughfares, reduces spill-over onto adjacent residential properties and reduces unnecessary transmission of light into the night sky. The requirements of this section are not intended to apply to the city's "hook and bell" fixtures on Main Street nor to the city's historic-style acorn fixture, including the use of the approved acorn fixture on private property.

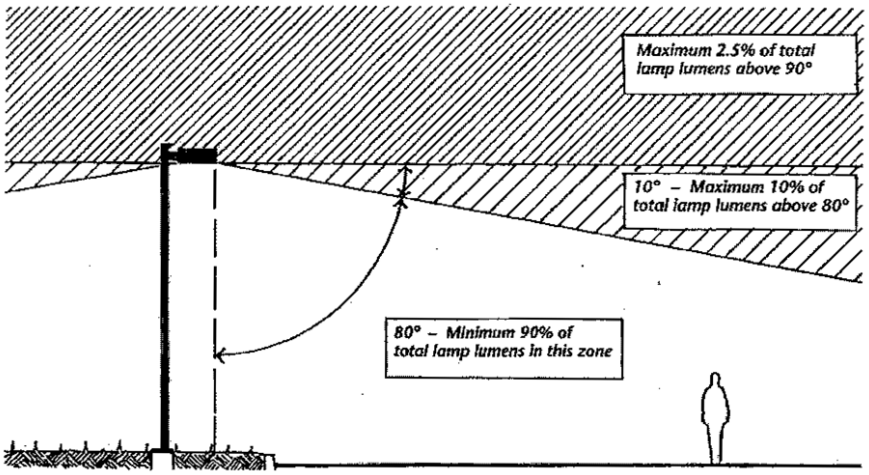
(1) *General requirements for exterior lighting in the ~~CBD, B-1, O-1 and O-2~~ commercial, office and mixed-use districts.* Exterior lighting shall be designed to minimize glare, reduce spill-over onto adjacent

properties, and provide appropriate levels of illumination, but shall not result in excessive nighttime illumination. The following conditions shall apply:

a. Light levels shall meet the minimum need for safety, security and illumination of a specific use, as determined by the planning commission or the building official, based upon a lighting plan submitted with the applicant's site plan.

b. To control glare, all light fixtures shall have a cut-off angle of less than 90 degrees, except decorative pedestrian fixtures of 100 watts or less.

c. The city may choose to waive or alter cut-off requirements of this section when appropriate historic or decorative fixtures are proposed (e.g., use of decorative up-lighting to illuminate the underside of a canopy or columns on a facade, where a canopy or roof projection restricts the projection of the light into the night sky).



Cut-off fixture as defined by IESNA.

d. Light fixtures shall be located at least five feet from any property line and shall be directed and shielded to cast light away from adjacent properties and streets. The maximum illumination levels at any property line shall not exceed one footcandle.

e. Glare control shall be accomplished primarily through the proper selection and application of lighting equipment. Only after those means have been exhausted shall landscaping, fencing and similar screening methods be considered acceptable means for reducing glare.

f. Lamps with true color rendition are preferred, such as incandescent and metal halide lamps. The use of mercury vapor and low and high pressure sodium lamps are prohibited. However, the planning commission may permit the use of high pressure sodium lighting at the intersections of driveways with public streets when the average illumination level on the ground does not exceed six footcandles.

g. Exterior lighting fixtures should be of a design and size compatible with the building. The use of floodlights, wall-pack lighting, or other types of diffused, unshielded lighting is prohibited.

h. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use. There shall be no flashing, oscillating, moving or intermittent type of lighting or illumination.

i. Maximum permitted fixture height:

1. Parking lot luminaires shall not exceed 20 feet.
2. Unshielded pedestrian fixtures shall not exceed ten feet.
3. All other light fixtures shall not be mounted in excess of the maximum height limitation of the district in which they are located.

(2) *Exterior lighting levels in the ~~CBD, B-1, O-1, O-2 and P-1~~ commercial, office and mixed-use districts.* The intensity of exterior lighting shall be limited to the following minimum/maximum levels:

Minimum/Maximum[1] Footcandle Amounts for Various Land Uses

Land Uses[4]	Illumination of:	Public Buildings, Parking, Office Uses (P-1, O-1, O-2)	Commercial Uses (CBD, B-1)
	General	0.2 min. 0.5 max.	0.2 min. 0.5 max.
	Driveway	0.2 min. 1.0 max.	0.2 min. 1.0 max.
	Parking	0.2 min. 1.0 max.	0.2 min. 1.0 max.
	Walks	0.2 min. 1.0 max.	0.2 min. 1.0 max.
	Protective	0.5 min. 1.0 max.	0.5 min. 1.0 max.
	Building	0.5 min. 3.0 max.	1.0 min. 5.0 max.
	Loading areas	0.2 min. 1.0 max.	0.2 min. 1.0 max.
Gas station/convenience store	Apron[2]	N/A	N/A
	Canopy[3]	N/A	N/A

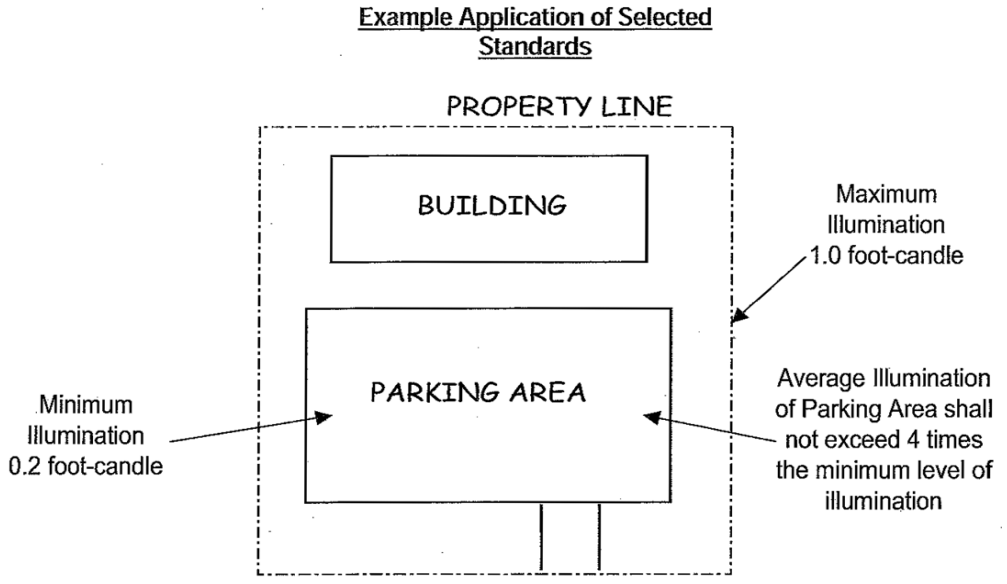
Notes to Table of Minimum/Maximum[1] Footcandle Amounts:

[1] The maximum allowable footcandle levels shall be governed by the 4:1 ratio of average to minimum illumination of the surface being lit, expressed as the average across the total area of the site or building being lighted, or directly beneath a canopy, divided by the minimum from the table above. The planning commission may modify these requirements where they determine it is necessary to protect nearby residences or driver visibility on adjacent roads.

[2] Apron areas are away from the gasoline pump island, used for parking or vehicle storage.

[3] Light fixtures mounted on canopies shall be installed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy and/or shielded by the fixture or the edge of the canopy.

[4] The planning commission may require special conditions for properties adjacent to residential uses and districts.



(3) *Exterior lighting in all districts.*

a. Exterior lighting shall be arranged as far as practical to reflect light away from any residential use, and in no case shall more than one footcandle power of light cross a lot line five feet above the ground in a residential district.

b. Exterior lighting from a commercial building or multiple-family dwelling in any district that abuts and faces a single-family dwelling in a residential district shall have shielding that directs light downward such that light does not shine on the windowed side(s) of said single-family dwelling. Any light fixtures existing at the time of the enactment of this subsection b. that do not conform to this requirement must be removed or brought into compliance upon the first of the following to occur:

1. The nonconforming light is damaged to the extent that the cost of repairing it to its former condition exceeds 50 percent of the cost of such light fixture;

2. The nonconforming light is replaced; or

3. Six months from the date subsection b. becomes effective.

c. Standard lights from single family residences abutting other residences in a residential district are subject to the one footcandle power limitation in subsection (3)a. above, but are exempt from the remaining provisions of this subsection (3).

(4) *Exemptions.* The following uses shall be exempt from the provisions of this section:

a. Roadway lighting required by the appropriate public agency for health, safety and welfare purposes;

b. Construction lighting approved by the building department as part of a building permit;

c. Flag lighting, provided that the illumination is the minimum level necessary, and that the light source is aimed and shielded to direct light only onto the intended target and to prevent glare for motorists and pedestrians;

d. Emergency lighting approved by the city, provided the lighting is discontinued upon the abatement of the emergency necessitating said lighting; and

e. Other temporary lighting determined to be reasonable and appropriate by the City of Rochester.

(Ord. No. 2004-04, 3-22-2004; Ord. No. 2021-10, § 1, 12-20-2021)

Sec. 2307. Smoke, dust, and other particulate matter.

(a) For purposes of this section: "smoke" is any visible emission into the open air from any source, except emissions of an uncontaminated water vapor; a "smoke unit" is a measure of the quantity of smoke being discharged and is the number obtained by multiplying the smoke density in the smoke chart by the time of emission in minutes. Thus, the emission of smoke at a density of smoke chart number 1 for one minute equals one smoke unit. The Ringelmann Smoke Chart shall be the standard smoke chart, and shall be on file with the administrative official. The density of smoke emission shall not exceed smoke chart number 2, and the quantity of smoke shall not exceed ten smoke units per hour per stack.

Sec. 2308. Drifted and blown material.

(a) The drifting or airborne transmission beyond the lot line of dust particles, or debris from any open stockpile shall be unlawful and may be summarily caused to be abated.

Sec. 2309. Nuclear radiation.

(a) Nuclear radiation shall not be emitted to exceed quantities established as safe by the U.S. Nuclear Regulatory Commission.

Sec. 2310. Water supply and sewage disposal.

(a) Every building used or intended to be used for human habitation or human occupancy, including but not limited to dwelling, industrial, commercial, office, and institutional uses, shall be furnished with water supply and sewage disposal as provided for in the building code ordinance. Accessory buildings, such as garages or storage buildings, intended and used for incidental or no human occupancy are excluded from this requirement, except that if water supply and-or sewage disposal is furnished to such building, it shall comply with the standards of the building code.

Sec. 2311. Open storage.

(a) The open storage of any industrial or commercial equipment, vehicles, and all materials, including wastes, except new vehicles for sale and/or display, shall be screened from public view, from a public street, and from adjoining properties by an obscuring wall or fence not less than six feet nor more than eight feet high. The required height of the wall shall be determined by the planning commission so as to properly screen all materials, vehicles and wastes. Vehicles and equipment over eight feet high must be properly screened but need not be completely screened above eight feet. Materials must be completely screened if they are stored within 20 feet of the screen wall or fence. All wastes must be completely obscured from view. In no instance shall any open storage of equipment, vehicles and/or materials be permitted within a required front yard in any zoning district.

ARTICLE 24. OFF-STREET PARKING AND LOADING

Sec. 2400. Parking, storage, or use or major recreational equipment.

(a) For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Sec. 2401. Parking and storage of certain vehicles.

(a) Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings. In residential zones it shall be illegal to park any vehicle larger than three-quarter-ton capacity unless in an enclosed building or 100 feet from any lot line, and said commercial vehicle must be owned and operated by a member of the family residing on said lot or parcel.

Sec. 2402. Required off-street parking, general.

Off-street parking required in conjunction with all land and building uses shall be provided as herein prescribed:

(1) The minimum number of off-street parking spaces shall be determined in accordance with the following table. The minimum standards of this ordinance are not intended to function as desirable design standards for maximizing site usage. The purpose of these standards is to limit traffic congestion and public inconvenience. For uses not specifically mentioned in the table, off-street parking requirements shall be established by the administrative official from requirements for similar uses.

(2) Any area once designated as required off-street parking shall never be changed to any other use unless and until equally required facilities are provided elsewhere. Off-street parking existing at the effective date of this ordinance in connection with the operation of an existing building or use shall not be reduced to an amount less than would hereinafter be required for such building or use.

(3) The off-street parking may be provided either by individual action or by a parking program carried out through public action, whether by a special assessment district or otherwise.

(4) Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately. However, in cases of dual functioning of off-street parking where operating hours do not overlap, the city planning commission may grant a ~~special exception~~conditional use based on the peak hour demand.

(5) Required off-street parking shall be for the use of occupants, employees, visitors, and patrons, and shall be limited in use to motor vehicles. The storage of merchandise, motor vehicles for sale, or the repair of vehicles is prohibited. Required off-street parking for nonresidential uses shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.

(6) Off-street parking for a one-family dwelling or a two-family dwelling shall be subject to the following requirements:

a. Required off-street parking for a one-family dwelling or two-family dwelling shall consist of a paved driveway.

b. No vehicle shall be parked on the lot other than on a paved driveway, or in a garage or carport.

c. No vehicle shall be parked closer than three feet to a front lot line.

d. No driveway shall be located between the dwelling and the front lot line (see definition below) unless:

1. Approved by the city planning commission in conjunction with its approval of a subdivision final plat; or

2. Approved by the city planning commission as a ~~special exception~~conditional use, based on the criterion that lots of ample width and area can adequately accommodate such parking, subject to article 26; or

3. Approved by the board of appeals as a variance, subject to article 30.

(7) The city planning commission may grant ~~special exception~~conditional use to the minimum number of off-street parking spaces required to be provided only to the extent that existing public parking in the immediate area exceeds the requirements of this ordinance for the existing contiguous buildings. As a condition of ~~special exception~~conditional use, the applicant/owner shall satisfy the requirements for off-street parking by a payment-in-lieu of providing said parking spaces as set forth in chapter 28, article IV of the City Code. Where off-street parking has been provided through special assessment of property, the required number of off-street parking spaces may be reduced by the planning commission by that number of spaces which can be allocated to the assessment on that property.

(8) The following area shall be known as the Parking Management District:

Bounded on the north:

Starting at the northeast corner of 400 Sixth Street, easterly to the south line of the former Penn Central Railroad, and then to the intersection of Main Street and Olde Towne Road, and then along the centerline of Olde Town Road to Water Street.

Bounded on the east:

Along the centerline of Water Street from Olde Town Road to East Third Street, and then along the centerline of East Third Street from Water Street to East Second Street, and then along the centerline of East Second Street from Third Street to East Alley, and then along the centerline of East Alley from East Second Street to Mill Street.

Bounded on the south:

By the centerlines of Mill Street and First Street from East Alley to the westerly lot line of 71 Walnut.

Bounded on the west:

From First Street extending northerly along the rear lot lines of those properties along the west side of Walnut to West Second Street, and then along the centerline of Pine Street from West Second Street extending north to the Paint Creek.

A copy of the Parking Management District map outlined above shall be available from the city clerk. The off-street parking requirements for properties located in the Parking Management District are set forth in chapter 28, article V.

(9) Notwithstanding the other provisions in this section, the planning commission may at their discretion and in limited circumstances, consider the modification of the numerical requirements for off-street parking, based upon evidence provided by the applicant that indicates that another parking standard would be more appropriate for the proposed property use. Such authority is granted to provide the planning commission flexibility in reviewing sites, which would allow for shared parking or alternate means of providing parking, when a site is unable to accommodate all of the required parking per the zoning ordinance or to avoid variances for the same, which would run with the land in perpetuity. Such flexibility or deviation from the ordinance standard would be tied to the specific use and site plan approved and will cease to exist once the use on the site terminates or changes to another use. Such evidence may include any or all of the following and shall be compiled by an independent third party:

a. Anticipated current or future levels of employees and/or patrons.

b. Peak period usage versus normal usage.

c. Banked or reserved parking for future use.

d. Environmental factors which accommodate additional landscaping and the minimization of impervious areas on the site.

e. Provision of valet parking or other means of accommodating patrons on a private lot that does not burden public parking. Further, submission of proof that such valet parking is available for the days and times noted and not in conflict with other businesses using the same valet facility.

f. Demonstration by the applicant that surrounding characteristics unique to the property justify the requested deviation.

g. Demonstration by the applicant that the strict application of the ordinance would prevent ability to develop the property as proposed for an appropriate allowed use.

h. Other factors pertinent to a modification of parking requirements that have a direct relationship to this section 2402(9).

i. Demonstration that such modification will not impact or negatively affect public parking in the city.

j. Approval of any flexibility in the parking count does not exempt a property owner from any special assessment associated with parking.

Any planning commission modification under this subsection shall be conditioned on the use of the property continuing as approved. Any substantive deviation in the type, scope or intensity of the property use will result in the standard parking requirements being applied. Non-substantive deviations may be administratively approved.

If a site that receives approval from the planning commission on the basis of evidence submitted, is found to be in violation of the terms of approval i.e., availability of valet parking or has misrepresented the information based on which such a deviation has been granted, the applicant shall receive a violation/show cause notice. The applicant will be required to appear before the planning commission to address the issue(s) and concerns raised.

Based on the information presented, the planning commission may add additional conditions to the parking deviation previously granted. Subsequently, issuance of a second violation notice by the city will be cause for revocation of the site plan privilege granted, and will require the applicant to thereafter provide the parking for the use(s) on the site as required by the zoning ordinance or discontinue the use altogether.

(Ord. No. 2013-03, pt. I, 3-11-2013; Ord. No. 2015-09, 6-22-2015)

Sec. 2403. Table of required off-street parking spaces.

Uses	***Spaces***	***Per Unit of Measurement (Rounded Off to Nearest Unit)***
a. Residential:		
One-family detached and two-family dwelling	2	Per dwelling unit.
Manufactured homes, family day care homes, adult foster care family homes, adult foster care small group homes (6 or fewer adults) and child foster family homes.	2	Per dwelling unit/home site and one for each employee at the facility plus 0.25 parking spaces per unit for visitor parking which shall be located convenient to the area served.
Multiple-family and single-family attached		One for each efficiency unit. 1.5 for each one bedroom unit. Two for each 2 bedroom unit. Three for 3 plus bedroom unit.
Housing for the elderly - Independent		One for each dwelling unit plus one for each employee in the largest shift. If units revert to general occupancy, then subsection (1)b of this section applies.
Housing for the elderly - Dependent		
i. Congregate care		One space per 2 units plus one for each employee and doctor in the largest shift.
ii. Assisted living		One space per 2 units plus one for each employee and doctor in the largest shift.
iii. Nursing/convalescent		One space per 4 units plus one for each employee and doctor in the largest shift.
b. Office:		
Banks, credit unions and similar financial service offices, with or without drive-through	1	Per 250 sq. ft. GFA, plus 4 stacking spaces per drive-through lane and 2 stacking spaces per independent 24-hour ATM teller machine.
Business or professional general business offices such as, but not limited to, insurance, mortgage or loan company service offices, secretary of state office, unemployment compensation office, utility company office	1	Per 300 sq. ft. GFA.
Medical or dental clinics, professional offices of doctors, dentists, or similar professions	1	Per 200 sq. ft. GFA.
c. Commercial:		
Outdoor dining areas on a "weather permitting basis" with seating for 30 or less patrons		No additional space required.

Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures then the following standards apply:

(1) If the outdoor seating is 25 percent or less of the seating capacity indoors, no additional parking is necessary.

(2) If the outdoor seating is 26 percent—50 percent of the seating capacity indoors, the restaurant may be required to provide up to 125 percent of the parking required for the indoor space.

(3) If the outdoor seating is over 50 percent of the seating capacity indoors, the restaurant may be required to provide up to 150 percent of the parking required for the indoor space.

In addition to the above requirements for number of spaces, all uses in commercial, office and industrial districts shall design the off-street parking area so that the following objectives are met. The planning commission has the discretion to require the provision of 20 percent additional parking above the required amount, if the commission determines that a project has not met the said objectives.

(1) Minimizes the likelihood of parking interference affecting adjoining residential neighborhood.

(2) Limits traffic congestion and public inconvenience by providing ample parking on-site to meet all foreseeable daily needs.

(3) Reduces the potential for overflow conditions that might result in undesirable on-street parking.

(4) Provide space on-site for future parking expansions.

Uses	***Spaces***	***Per Unit of Measurement (Rounded Off to Nearest Unit)***
Bed and breakfast homes	1	Each rental room plus one for owner/manager.
General retail stores	1	Per 200 sq. ft. GFA.
Furniture and appliance, hardware stores, household equipment repair shops, showroom of a plumber, decorator, electrician or similar trade, shoe repairs	1	Per employee plus one per 600 sq. ft. of usable floor area.
Supermarkets	1	Per 150 sq. ft. GFA.
Barber shops	2	Per chair.
Beauty parlors	2	Per station.
Convenience stores	1	Per 200 sq. ft. of GFA.
Carry-out establishments primarily serving customers over a counter or through a window, other than a drive-through facility, i.e., food carry-out, dry cleaner pick-up, meat markets, bakeries, etc.	1	Per 30 sq. ft. of floor area devoted to customer assembly and/or waiting area. Parking needs for areas devoted to the consumption of food on the premises shall be computed separately for such seating areas.
Contractor's showroom and offices with no exterior storage yards (i.e., plumber, decorator, electrician or similar trade)	1	Per 800 sq. ft. of gross floor area plus one for each 2 persons employed therein, plus one per company/commercial vehicle.
Dance, gymnastics, music, voice, art and other similar schools and studios	1	Per 2 students based on maximum occupancy.
Dog grooming	1.5	Per grooming station.
Funeral parlors	1	Per 5 persons based on maximum capacity, plus One for each employee on the largest employment shift, plus One for each facility vehicle.

Health and physical fitness centers	1	Per 4 persons based on maximum capacity, plus one space per employee on the largest employment shift.
Kennels, dog hotels, etc.	1	Per 800 sq. ft. of GFA.
Pool hall or club	1	Each game table, or one for each 300 sq. ft. GFA whichever is greater.
Bowling alleys	5	Each bowling lane or 3 per bowling lane plus amount required for accessory uses such as restaurant or bar.
Restaurants without alcoholic beverages	1	150 sq. ft. GFA.
Restaurants with defined bar area for serving alcoholic beverages	1	100 sq. ft. GFA
Restaurants with alcoholic beverages served only at dining tables, but without a defined bar area for serving or displaying alcohol	1	145 sq. ft. GFA
Fast food restaurant	1	Per each 75 sq. ft. of gross floor area plus 8 off-street stacking spaces shall be provided for each drive-through transaction window.
Ice cream parlors	1	Per 75 sq. ft. of net floor area, with a minimum of 8 spaces.
Theaters and auditoriums (except schools)	1	Each 3 seats.
Laundromats	1	Each 2 washing machines or one per 250 sq. ft. of GFA.
Movie theaters	1	Per 3 persons based on maximum occupancy.
Motel, hotel or other commercial lodging establishment	1	Each guest room plus spaces required for accessory uses such as bars, dining rooms, meeting rooms or ballrooms.
Open front or open air business, including outdoor retail display areas, and not otherwise provided for herein	1	Per 800 sq. ft. of gross lot area used for said business.
Stadium and sports arena, or similar outdoor place of assembly	1	Each 4 seats, or 8 feet of bleachers.
Printing and photo copying facilities	1	Per 300 sq. ft. of GFA.
Drug stores and other self-serve retail establishments	1	Per 250 sq. ft. of usable floor area plus 8 stacking spaces per drive-through window.
Veterinary hospitals and clinics	1	Per 300 sq. ft. of usable floor area.
d. Public and Institutional:		
Churches and other houses of worship	1	Each 3 seats. Plus parking required for ancillary uses such as child care, café, classes, etc.
Hospital	1	Per 2 beds and one per staff doctor and employee in largest shift.
Group homes (adult group day-care homes, adult foster care small group homes (7 to 12), child group day care homes, and child foster family group homes)	1	Per 2 residents, plus One for each employee.
Elementary and junior high schools	1	Per employee and teacher plus one space per 4 auditorium seats.

High schools, trade school, colleges and universities	1	Per teacher, employee or administrator and one for each 10 students, in addition to one space for each 4 auditorium seats, if provided.
Private club or lodges	1	Each 5 members based on allowable occupancy.
Golf clubs or swim pool clubs	1	Each 2 members.
Fraternity or sorority	1	Per 1.5 bedrooms.
Libraries, museums, cultural centers or similar facilities	1	One for each 500 sq. ft. of gross floor area or occupancy allowed, whichever is less.
Municipal and public utility offices	1	Per 300 sq. ft. of GFA.
e. Industrial:		
Industrial manufacturing or research establishments	1	Per 800 sq. ft. GFA.
Warehouse and storage facilities (including self-storage)	1	Per 1,500 sq. ft. of GFA.
Wholesale establishments	1	Per 1,000 sq. ft. GFA.
Contractor's offices with exterior storage yards (i.e., plumber, decorator, electrician or similar trade)	1	Per 300 sq. ft. of GFA.
f. Automotive Uses:		
Automobile/motor vehicle sales and service establishments, trailer sales and rental and boat showrooms		One for each 200 sq. ft. of showroom floor area, plus One for each service stall.
Automobile/motor vehicle repair, collision or bump shops, and other similar uses		Two for each service stall, plus One for each service vehicle.
Automobile service stations without convenience store		One for each pump unit, plus Two for each service stall.
Automobile service station with convenience store		One for each pump unit, plus Two for each service stall, plus One for each 200 sq. ft. of gross floor area devoted to customer retail sales, customer service and other related uses.
Automobile/motor vehicle wash (self-serve)		Five for each wash stall, plus One for each vacuum station. Spaces for the wash stall shall be counted as one post wash station, one wash station and 3 stacking spaces per stall.
Automobile/motor vehicle wash (automatic)		One for each 200 sq. ft. of gross floor area of customer waiting and service area, plus one for each vacuum station plus stacking spaces equal in number to 5 times the maximum capacity of the motor vehicle wash for automobiles awaiting entrance. The term "maximum capacity" shall mean the greatest number possible of automobiles undergoing some phase of washing at the same time, which shall be determined by dividing the length of each wash line by 20 feet. A drying lane 50 feet long shall also be provided at the exit of the washing stalls in order to prevent undue amounts of water

		from collecting on the public street and thereby creating a traffic hazard.

Upon approval by the planning commission, the paved area for off-street parking may be reduced to an area comprising one space for every employee in the largest working shift, or one for every 1,700 sq. ft. of usable floor area, whichever is greater, provided that a surplus area is provided on the site to accommodate the construction of additional off-street parking to fulfill the requirements for industrial or research establishments when needed.

The purpose of this subsection is to prevent improved industrial property from being rendered unusable by changing economic conditions, by permitting such uses to develop with reduced numbers of constructed off-street parking spaces while retaining additional site area for possible future off-street parking use. The applicant shall submit one layout showing the number of spaces to be provided as well as an alternate layout showing the number of spaces to be provided and the number to be landbanked. All areas designated for landbanking shall be maintained as landscaped open space. The applicant shall demonstrate that all landbanked parking areas can be developed as future parking spaces in accordance with city standards. Landbanked parking areas may not be used to satisfy landscaping, buffer, or screening requirements of this ordinance.

Approval for deferral of parking space construction (landbanking) shall only be granted upon a finding by the planning commission that adequate parking will be available for the proposed use on site; parking will not occur on any street or driveway, no traffic or circulation problems will occur on or off site; and the deferral is consistent with and protects public health, safety and welfare.

(Ord. No. 2009-13, 5-11-2009; Ord. No. 2009-21, pt. 5, 11-9-2009; Ord. No. 2009-22, pt. 4, 11-9-2009; Ord. No. 2015-05, pt. I, 2-23-2015; Ord. No. 2017-02, pt. I, 2-13-2017)

Sec. 2404. Off-street parking lot layout, construction and maintenance.

Wherever a parking lot is built, such parking lot shall be laid out, constructed, and maintained in accordance with the following requirements:

(1) The construction or initiation of off-street parking, except for a single-family dwelling, shall be preceded by an approved site plan, and zoning compliance permit.

(2) All parking spaces shall be laid out in the dimension of nine feet by 18 feet; however, in a parking lot of more than 12 parking spaces, the city planning commission may approve a site plan providing for up to 25 percent of the spaces in the dimension of nine feet by 16 feet, designated for small cars.

(3) Adequate ingress and egress shall be provided for vehicles to and from the parking lot by means of clearly limited and defined drives.

(4) Parking spaces will be set back from abutting residential districts as follows:

Where the parking lot adjoins or faces a residential district at the following:	*Required setback of parking spaces:*
Side lot lines	Three feet from such side lot line
Contiguous common frontage in same block	Ten feet from front lot line
Across the street and opposite with residential lots fronting on such street	Ten feet from front lot line
Across the street and opposite, or contiguous to and in the block, with residential side lot lines on such street	Ten feet from street lot line
Rear lot line	Three feet from rear lot line

(5) For the purposes of this section, the land between the setback of parking spaces and the lot lines is called a buffer strip. Wheel stops or curbing shall be provided to prevent any vehicle from projecting into a buffer strip or over a lot line. Up to two feet of the distance between the wheel stop or curbing and the buffer strip may be counted towards the depth dimension of the parking space(s), if it is designed to accommodate vehicle overhang, and that area shall be paved, stoned, or landscaped. Any portion of a buffer strip which is three feet or less in depth and is screened from adjoining property by a screen wall shall be paved, stoned, or landscaped; all other buffer strips or portions thereof shall be landscaped (including incidental walkways or other paving) pursuant to an approved site plan.

(6) Wherever a parking lot of four or more spaces adjoins or is across the street from a residential district, screen walls shall be constructed in accordance with article 28.

(7) The off-street parking lot shall be provided with asphaltic or concrete or other approved surfacing so as to provide a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water accumulated within the area in such a way as to not drain onto adjacent property or building. The construction of the required off-street parking shall be completed before a certificate of occupancy is issued; provided, however, for reasons of delay in construction caused by weather or other delay beyond the control of the owner, the planning commission may approve a financial guarantee for the completion of the off-street parking within not more than one year of the issuance of a certificate of occupancy, in accordance with section 2905, performance guarantee.

(8) Parking decks and/or structures may be permitted to satisfy off-street parking regulations when located in other than a residential or office district. All parking decks and/or structures shall require ~~special exception~~conditional use approval by the planning commission. During consideration of the ~~special exception~~conditional use, the commission shall ensure that the following standards are met, in addition to the general requirements of article 26:

a. Where a parking deck or structure is located on property adjacent to a one-family residential district, the following standards shall apply:

1. It shall be set back from the common lot line a distance not less than 100 feet.

2. The maximum height of the parking structure shall not exceed 48 feet. Where the maximum height of 48 feet will not achieve the required number of parking spaces, additional levels of the parking garage shall only be permitted below grade.

3. If the parking structure will exceed the maximum height allowed in the adjacent one-family district, the minimum setback as required by subsection (8)a.1. of this section shall be increased by an additional two feet for every one foot the structure exceeds the maximum height allowed in the adjacent one-family district.

4. The applicant shall demonstrate that the parking structure will not cast a shadow on any adjacent one-family residence in a manner that deprives its occupants of adequate natural light. The planning commission may require a greater setback than otherwise required in order to ensure this standard will be met. For reference, the applicant shall demonstrate what impact the structure's shadow will have on adjacent one-family districts based on the angle of the sun at 12:00 noon and 3:30 p.m. on December 21, and at 12:00 noon and 6:00 p.m. on June 22. The demonstration shall be made using three-dimensional modeling software or an equivalent method approved by the planning commission.

5. The entire area between a parking deck or structure and the abutting residential district shall be landscaped with trees, shrubs, and other ornamental plant materials and shall be illustrated on a landscape plan sheet for approval by the planning commission. The plan shall be designed to provide a living buffer and natural transition from the residential lot line to the parking structure. For parking structures in excess of 25 feet tall, the landscape plan shall provide large deciduous and/or evergreen trees along the face of the parking structure as

one element of the landscape plan, placed 30 [feet] out from the structure and spaced on 30-foot centers, and interspersed with a variety of ornamental shrubs. The planning commission may approve a green screen or living wall type of planting in place of this first tree row, where it finds such technique will provide equal or greater screening of the building facade than the tree planting.

6. All equipment installed as a part of a parking deck or structure shall comply with the regulations for sound in section 2301 of this [zoning] ordinance.
7. The side of a parking deck or structure that faces a residential district shall have a finished appearance by the application of face brick or an equivalent material approved by the planning commission. There shall be no openings in the wall of a parking deck or structure that faces a residential district, except those required by the building code or necessary to ensure public safety.
8. Lighting fixtures and equipment for a parking deck or structure shall be designed so as not to cause glare or otherwise illuminate an adjoining residential district.
9. The planning commission may limit the hours of operation of a parking structure where necessary to provide protection to nearby residences.
10. Access to the structure along common lot lines abutting the residential districts shall be limited to access drives for emergency vehicles, when necessary.

b. Where a parking structure is not adjacent to a residential district, it shall meet the height and setback requirements of the current zoning district, in addition to the following standards:

1. In order to minimize interruptions in the pedestrian experience, structures which front upon streets located in the Central Business district shall be designed with ground floor space, liner buildings, or future building sites for retail or similar uses along the public sidewalk. The planning commission may grant a waiver from this requirement for all or part of the ground level frontage on streets determined to be outside the retail core of the downtown.
2. In the B-1 and CBD districts, awnings, signage and other architectural elements shall be incorporated that encourage pedestrian activity and enhance the streetscape.
3. Auto entrances shall be located to minimize pedestrian/auto conflicts.

(9) The plan for the layout of the parking lot shall provide at least the following minimum dimensions to the pattern utilized:

Pattern	*Total Dimension Across Two Tiers of Spaces and One Aisle (Maneuvering Lane)*	*Minimum Aisle Width Dimension*
90 degree	60 feet	24 feet
60 degree	54 feet	18 feet
45 degree	48 feet	15 feet
45 degree Herringbone pattern	46 feet	15 feet

Any aisle or maneuvering lane of less than 20 feet width shall be designed and designated for one-way traffic movement.

(10) The plan for the off-street parking lot shall specify the landscaping to be installed, including the placement and specifications of landscape materials, and shall be subject to approval as part of the site plan. The parking lot shall be landscaped in accordance with the approved site plan before a certificate of occupancy is issued for use of the parking lot. However, if seasonal weather conditions present

practical difficulties in the installation or completion of the landscaping, the completion thereof may be deferred for not more than six months. If the landscaping is not fully installed by that time in accordance with the approved plan, occupancy for the use of the parking lot shall be revoked by the administrative official.

The owner of the premises upon which the landscaping is located shall maintain such landscaping in good condition so as to present a thriving, neat, and orderly appearance-free from refuse and debris. All diseased and dead material shall be replaced within one year or the next appropriate planting period, whichever, comes first.

All off-street parking areas of more than 40 spaces shall incorporate and provide curbed or otherwise protected tree planting spaces to be laid out and constructed to dimensions of not less than five by ten feet, providing not less than 50 square feet of land area for each tree planting space, to be placed so as to be located in an asymmetrical manner throughout the parking area. There shall be planted and maintained, trees of a selected variety and varying in size as may be practical for planting and architectural effect, as provided pursuant to section 13, but which shall be of a minimum of 1½ inches in trunk diameter at the time of planting and shall be provided and arranged as to establish a ratio of a least one tree for each 20 parking spaces or fraction thereof.

The plan for off-street parking, except as accessory to a single-family dwelling, shall be subject to the site plan approval requirements of article 27. Parking spaces of a parking lot are prohibited within the front 20 feet depth of a lot between the principal building and the front lot line, regardless of whether that area is a required front yard.

If the off-street parking lot is intended to serve office, business or commercial use(s), the parking lot and associated driveways shall be laid out to facilitate joint usage of driveways and circulation routes with adjoining property in the same block zoned for office, business or commercial use(s), with the intent of minimizing points of driveway access to major thoroughfares, increasing efficiency and safety of traffic circulation and coordinating grades and drainage. The planning commission shall have authority to require the implementation of such joint usage of said driveways and circulation routes by appropriate legal documentation between or among the property owners.

(Ord. No. 2010-16, 7-12-2010)

Sec. 2405. Off-street loading and unloading.

(a) On the same premises with every building, structure, or part thereof erected and occupied for manufacturing, storage, warehousing, retailing, wholesaling, or other uses involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading services adjacent to the opening used for loading and unloading in order to avoid interference with public use of highways, streets, or alleys.

(b) Any building(s) designed or used for retailing which have a total of more than 10,000 square feet gross floor area on one lot shall be provided with walls or other architectural elements designed and constructed as integral parts of extension of the building(s) for the purpose of visually screening the loading and unloading areas and activities and refuse storage areas, and such treatment shall require approval as part of the site plan.

Sec. 2406. Parking prohibition on unimproved land.

(a) The parking of motor vehicles is only allowed on parking lots meeting the requirements of section 2404, off-street parking lot layout, construction, and maintenance, except that:

(1) Parking for one-family or two-family dwelling is subject to the requirements of section 2402(6);

(2) Parking of vehicles in public rights-of-way is subject to the traffic code;

(3) The temporary parking of vehicles in conjunction with on-going construction on the site is excluded from the provisions of this article 24.

a. It shall be the responsibility of the property owner to prevent the parking of vehicles on the property in violation of subparagraph (a) above by fencing or other physical barriers approved by the administrative official. The failure of the property owner to install such physical barrier within 90 days written notice by the administrative official shall be a violation of this ordinance.

b. The planning commission may grant a ~~special exception~~conditional use for the temporary use of land for parking which does not meet the requirements of section 2404, for a specified duration, in unusual cases of temporary need, subject to such conditions on grading, drainage and traffic control as the commission shall impose.

c. Bona fide parking lots which are legally initiated before July 25, 1977, and which have continuously served the parking needs of premises within 300 feet of the parking lot and which do not conform to the requirements of this ordinance may be continued, subject to the conditions and restrictions of article 4 on nonconforming uses.

ARTICLE 25. PLANNED RESIDENTIAL DEVELOPMENT (PRD) OPTION IN R-4 AND R-5 DISTRICT

Sec. 2500. Intent.

(a) There is hereby established a Planned Residential Development option, with the purpose of allowing and encouraging flexibility in the types of residential dwellings and in the design of residential development, encouraging preservation of open space, while conforming to the density regulations of the R-4 District.

(b) The term "Planned Residential Development" means a specific parcel of land or contiguous parcels of land located entirely within an R-4 and/or R-5, One-Family Residential District under single ownership and control for which a comprehensive physical plan meeting the requirement of this section has been approved by the city council, and which has been, is being, or will be developed in accordance with the approved plan. Planned Residential Development is sometimes hereinafter referred to as PRD.

(c) Approval of a PRD shall be considered an optional method of development and improvement of property, subject to the mutual agreement of the city and the applicant.

Sec. 2501. Qualification for PRD.

(a) In order to qualify for consideration under the PRD option, the following requirements shall be satisfied:

(1) The proposed PRD areas shall be in one ownership.

(2) The land shall have direct access to a major or secondary thoroughfare.

(3) The PRD option is only intended for development which is planned and anticipated to be substantially underway within 24 months from the time of approval. The city's approval of a PRD shall expire within 24 months if construction of at least ten percent of the planned dwelling units is not started by that time.

(b) As matters of general design policy, the following objectives shall be encouraged and sought in PRD plans, as appropriate for the location.

(1) Scenic open spaces shall be provided along major roads and the width of such open space shall generally be equal to about one-half [of] the right-[of-]way.

(2) Recreation and scenic open space and facilities shall be provided for the use and enjoyment of PRD residents.

(3) Pathways for pedestrian and bicycle circulation shall be separated as completely as possible from the vehicular circulation system so as to reduce and minimize points of traffic conflict, and to enhance safety of pedestrian and bicycle circulation.

(4) Private roads within the PRD, if any, shall conform to the minimum road standards established by the city for public roads.

(5) A variety and mixture of housing types is encouraged, and the PRD shall include adequate provisions and safeguards to assure that the planned variety and proportions of housing types will be accomplished within a reasonable period of time.

Sec. 2502. Permitted principal uses.

(a) In a Planned Residential Development, the following [principal] uses shall be permitted:

(1) Detached one-family residential dwellings with each such dwelling located on a lot in a recorded subdivision. Not less than one-half of the total number of dwellings in the PRD shall be one-family detached dwellings.

(2) Detached one-family residential dwellings or attached one-family residential dwellings located in a "condominium project" as defined by Act 59 of 1978, as amended. These dwellings shall be in conformance with a condominium subdivision plan approved by the city council, and with the Michigan Corporation and Securities Commission in accordance with that statute.

(b) For purposes of this section, an "attached one-family dwelling" is a dwelling unit having one or more walls attached to the walls of not more than two other such units, and which is completely self-contained, with no part of the dwelling unit above or below another dwelling and without interior access to any other dwelling unit, and with each dwelling unit having its own entrance directly to the outdoors. There shall be no more than five dwelling units which are attached directly or indirectly one to another.

Sec. 2503. Permitted accessory uses.

[The following accessory uses shall be allowed in a Planned Residential Development:]

(1) Same as accessory uses allowed in a One-Family Residential District.

(2) In conjunction with and as part of the PRD; subdivision or neighborhood recreation and social facilities, such as swimming pools, parks, recreation buildings, social centers, public utilities, and similar facilities designed and intended primarily for the use of residents of the PRD.

Sec. 2504. Supplementary uses not in PRD.

The PRD option under the R-4 and/or R-5, One-Family Residential District does not allow stores, office buildings, or any other uses not herein designated as permitted uses. A PRD plan may include proposals for such supplementary neighborhood or community facilities; however:

(1) These would entail rezoning to accommodate such nonresidential uses; and

(2) The land for such nonresidential uses shall be clearly and specifically identified in the PRD plan as being outside the boundary of the PRD, and not included in the density calculations thereof.

Sec. 2505. PRD minimum land area and lot area.

In order to be considered for Planned Residential Development, the minimum overall project site size shall be 80 acres. The maximum allowable density and minimum recreation space and open space requirements in any PRD shall be in accordance with the following standards:

(1) There shall be a minimum average of 9,600 square feet of land area per dwelling unit in a PRD, exclusive of public and/or private street rights-of-way.

(2) The R-4 requirements of the schedule of district regulations shall be used as guidelines for lot area, lot width, lot coverage, yard setbacks, and building height. These requirements may be modified in the approved plan provided they are appropriate to the design of the PRD and the intent of this section.

(3) For each square foot of open space or recreation space permanently established by the PRD, there may be a corresponding reduction of one square foot in the land area required to accommodate the number of dwelling units proposed, to a maximum of 25 percent of the total required land area. This shall mean that the actual land area per dwelling unit in a PRD shall not be less than 7,200 square feet, exclusive of open space and recreation areas and street rights-of-way.

(4) No individual lot area, lot width, or yard setback shall be reduced by more than 25 percent of the R-4 requirements.

(5) An individual area being considered for approval as open space or recreation space shall not be less than one acre in size. This standard may be modified only in the case of very unique or critical natural areas that are actually less than one acre in size or in the case of certain pedestrian facilities designed to separate pedestrian and automobile traffic.

(6) All proposals for Planned Residential Development in R-4 districts shall provide a minimum of 1,450 square feet of open space or recreation area per dwelling unit proposed. Within an R-5 district, a minimum of 2,250 square feet of open space or recreation area per dwelling unit shall be provided.

(7) It is the intention of the PRD option that land area and setback reductions should result in the creation of significant sites for recreation activities or in the preservation and protection of significant natural features of the site such as unique topography, important wetlands, heavily wooded areas, scenic views and the like. In addition, these areas should relate directly to those portions of the development where land areas per unit will be reduced and should be available for the use and enjoyment of PRD residents. If these conditions are not met, the city will not approve the lot area reductions.

Sec. 2506. PRD open space.

(a) The difference in land area between the minimum required total land area in PRD and the provided lot area shall be furnished in open land area comprised of land for recreation, conservation, floodplains, and/or other open land uses. The open space may include incidental and accessory buildings and structures serving the subdivision, such as recreation and social center buildings. All open space which is to be utilized toward satisfying the density requirements of the PRD shall be restricted by appropriate covenants running with the land to assure the perpetual use of such land as intended by the approved PRD plan, and shall be designed and intended primarily for the use and enjoyment of the PRD residents. Land may be designated for schools, houses of worship, and similar uses listed under R-4 and/or R-5 ~~special exception~~conditional uses, but shall not be included toward satisfying the density requirements of the PRD.

Sec. 2507. Application for PRD approval.

The owner(s) of land zoned R-4 and/or R-5, One-Family Residential District may make application to the city council for consideration under this section of this ordinance according to the following procedure:

(1) Submittal of proposed PRD plans. An application shall be made to the city clerk for review and recommendation by the planning commission of the following:

a. Boundary survey of the exact acreage being requested, certified by a registered land surveyor or civil engineer.

b. A topographic-planimetric map of the area at a contour interval of not less than two feet, identifying all major stands of trees, bodies of water, and unbuildable areas, certified by a registered land surveyor or civil engineer.

c. A preliminary development plan of the PRD carried out in sufficient detail to identify: the functional use areas and dwelling unit types being requested; the proposed population densities; a traffic circulation plan; site being reserved for schools, service activities, playgrounds, recreation areas, parking areas, and other open spaces and areas to be used by the public and/or by residents of the PRD. This plan shall be certified by a registered architect or a registered landscape architect.

d. Preliminary plan of contemplated storm runoff, sanitary sewer, and water distribution systems, together with a preliminary grading plan.

All maps and plans in subsections (1)a through d [of this section] shall be at a scale of not less than one inch equals 40 feet.

e. A written statement explaining in detail the full intent of the applicant and indicating types of dwelling units contemplated, resultant population and densities, calculations of area requirements, together with supporting documentation, such as soil surveys and intended schedule of development.

Sec. 2508. Review and approval of PRD plan.

(a) The city clerk shall refer such application to the planning commission for its report and recommendation to the city council. Upon receiving the planning commission's report and recommendation, the city council may approve said application and PRD plan only upon finding that:

(1) All applicable provisions of this section and this ordinance have been met.

(2) Adequate areas have been provided for utilities, schools, walkways, playgrounds, recreation areas, parking and other open space and areas to be used by the public and/or residents of the development.

(3) There will be at the time of development an adequate means of treatment and disposal of sanitary sewage and of water supply, and the road system and storm water drainage systems shall be adequate.

(4) The plan provides for an efficient, aesthetic, and desirable use of the open areas and that the plan is in keeping with the objectives of the comprehensive development plan.

(5) The applicant has made provision satisfactory to the city council to assure that those areas shown on the plan for use by the public or occupants of the development will be or have been committed for that purpose.

(6) Provisions have been made satisfactory to the city council to provide for the future financing of any improvements shown on the plan for open space areas and common use areas which are to be included within the PRD, and that maintenance of such improvements is assured by a means found to be satisfactory to the city council.

(7) The cost of installing all streets, utilities, and public improvements has been assured by a means satisfactory to the city council.

(b) The city council shall then instruct the city attorney to prepare a contract setting forth conditions upon which such approval is based. After approval by resolution of the city council, this contract shall be executed by the city and the applicant, and recorded in the office of the Oakland County register of deeds. Approval of the PRD shall be effective upon recordation.

(c) Any ~~special exception~~conditional use use(s) provided for under the R-4 and/or R-5 District may be approved as part of the PRD plan by the city council without city planning commission approval, provided no such use is within less than 300 feet of a boundary of the PRD.

(d) Once an area has been included within a plan for PRD and such plan has been approved by the city council, no development may take place in such area nor may any use thereof be made except in conformance and accordance with the plan or a city council approved amendment thereto, unless the plan is terminated as provided herein.

(e) Prior to any development within the area involved, an approved PRD plan may be terminated by the applicant or his successors or assigns by filing such termination with the city clerk and recording same in the Oakland County Records.

(f) No approved PRD shall be terminated after development commences, except with the approval of the city council and of all parties with an interest in the land.

(g) Within a period of two years following approval by the city council of the PRD, final plats and/or site plans for an area embraced within the PRD must be submitted as hereinafter provided. If such plats and/or plans have not been submitted and approved within the two-year period, the right to develop under the approved plan may be terminated by the city.

(h) The PRD shall be consistent with and promote the intent and purpose of article 25. The land uses and activities shall be compatible with adjacent uses of land, the natural environment, and the capacities of public utilities, roads, fire and police services, schools, playground and other public services and facilities. The PRD shall be consistent with the public health, safety, and welfare of the city.

(i) Before approving a PRD Plan, the city council shall hold at least one public hearing on the request. The city council shall grant a pre-application conference and/or review a preliminary site plan before the public hearing if requested by the applicant.

(j) Notification of the public hearing shall be given in the same manner as required by section 2602. Within a reasonable time following the public hearings, the city council shall meet for final consideration of the request, and shall deny, approve, or approve with conditions, the request. It shall prepare a report stating its conclusions on the request, the basis for decision, and any conditions relating to an affirmative decision pursuant to section 2604.

(k) Approvals may be granted on the PRD as a whole or on each phase of a multiphased development if each phase contains the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the development and the residents of the surrounding area.

Sec. 2509. Final plans and site plans, and development of PRD.

(a) Before any building permits or zoning compliance permits shall be issued for buildings and structures within the PRD, final plats and/or site plans as appropriate for the area shall be submitted to the city clerk for review and recommendation by the planning commission. Plats shall be prepared and furnished in accordance with the procedures of the city for plats, and site plans shall be submitted in accordance with article 27.

(b) In order to assure the development of open space as provided for in the PRD plan, the city council shall include in the contract recorded with the Oakland County register of deeds a schedule for the completion of phases or portions of the open space so that it coincides with completion of dwelling units. The developer may suggest a schedule for review by the city council.

(c) Fees for review of PRD plans, plats, and site plans in conjunction with planning and development of PRDs shall be established by resolution of the city council.

ARTICLE 26. ~~SPECIAL EXCEPTION~~CONDITIONAL USES, CONDITIONS OF APPROVAL

Sec. 2600. ~~Special exception~~Conditional uses.

(a) The following requirements, and procedures shall apply to the ~~special exception~~conditional uses; wherever any other provisions of this ordinance are in conflict with this section, the provisions of this section shall prevail. The review and approval of ~~special exception~~conditional uses shall be performed by the city planning commission, provided however that the conformance of plans, construction, and use to the requirements of this ordinance and the city planning commission's approval shall be reviewed and approved by the administrative official.

Sec. 2601. ~~Special exception~~Conditional use: definition.

(a) A ~~special exception~~conditional use is a use that would not be appropriate generally throughout a district without restriction, but which, if controlled as to number, area, location or relationship to environs, and/or conditions, would be appropriate to a particular location. "~~Special exception~~Conditional uses" are synonymous with "special land uses" as used in the MZEA Act, Act 110, Public Acts of 2006, as amended.

(Ord. No. 2009-07, pt. 2, 3-9-2009)

Sec. 2602. Procedures.

The application for a ~~special exception~~conditional use shall cite the provisions of this ordinance under which the ~~special exception~~conditional use is sought and shall include a site plan pursuant to article 27. Upon receipt of an application for a ~~special exception~~conditional use, after the application has been approved by the city manager as to completeness and form, including the site plan requirements of article 27, a public hearing shall be held by the city planning commission before a decision on the application is made by the city planning commission. The notice of public hearing shall be published in a newspaper of general circulation in the city and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet regardless of whether the property or occupant is located in the City of Rochester. The notice shall be given not less than 15 days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, business or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas or organization, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

(1) Describe the nature of the ~~special exception~~conditional use request.

(2) Indicate the property, which is the subject of the request. The notice shall include a listing of all existing street addresses within the property.

(3) State when and where the request will be considered.

(4) Indicate when and where written comments will be received concerning the request.

(Ord. No. 2009-07, pt. 2, 3-9-2009)

Sec. 2603. Action by city planning commission.

(a) The city planning commission may deny, approve or approve with conditions, requests for ~~special exception~~conditional use approval. The decision shall be incorporated in a statement of conclusions and findings relative to the ~~special exception~~conditional use under consideration and shall specify the basis for the decision, and any conditions imposed.

(Ord. No. 2009-07, pt. 2, 3-9-2009)

Sec. 2604. Conditions of approval.

(a) The conditions imposed with respect to the approval shall be recorded in the statement of findings and conclusions and maintained as part of the record of the approval action and shall remain unchanged except upon the mutual consent of the city planning commission and the landowner. The city planning commission shall maintain a record of changes granted in conditions.

(Ord. No. 2009-07, pt. 2, 3-9-2009)

Sec. 2605. Uses not otherwise listed or regulated land uses.

The planning commission shall have the following specific powers and duties concerning uses that are not otherwise listed in the Zoning Ordinance:

(1) *Statement of intent.* In some instances, the administration may determine a particular proposed use not specified may be a use inconsistent with the overall planning philosophy and considerations set forth in the Master Plan or Zoning Ordinance that substantiate or enhance the type of residential and commercial growth contemplated for this community. The procedures and standards in this section are intended to provide a consistent and uniform method for review of uses that are not specifically listed in the Zoning Ordinance (henceforth referred to as "regulated uses"), cannot be properly classified in any particular district without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

(2) *Application.* The application for regulated uses shall be made on the existing ~~special exception~~conditional use forms and according to the guidelines provided by the city administration and its consultants. Each application shall be accompanied by the following:

a. A detailed site plan which shall include all the information required by article 27 of the Zoning Ordinance.

b. A description of the proposed use of the property.

c. Other information which the planning commission may reasonably deem necessary for adequate review or is otherwise set forth in this section 2605.

(3) *Applicant.* The application shall be submitted by the owner of an interest in land (i.e., a fee owner, lessee or the purchaser under an option to purchase, conditional purchase agreement or similar legal agreement) for which regulated land use approval is sought, or by the owner's designated agent. The applicant or a designated representative shall be present at all scheduled review meetings, or consideration of the proposal may be tabled due to the absence.

(4) *Notice of public hearing.* Upon receipt of a complete application, site plan, and attachments, the planning commission shall schedule a public hearing on the request. No more than 15 days and not less than five days prior to the date of the public hearing, a notice of the hearing shall be published in a newspaper of general circulation in the city and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures

within 300 feet. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall contain the following:

a. A description of the nature of the request for a use to be reviewed under the specific section of this section.

b. A legal description or address and/or an approximate sketch of the property which is the subject of the request.

c. A statement of when and where the public hearing will be held to consider the request.

d. A statement as to when and where comments will be received concerning the request.

(5) *Planning commission determination.* Following the public hearing, the planning commission shall review the application for the regulated use proposal, together with the public hearing findings and reports and recommendations of the appropriate departments and consultants. The planning commission shall deny, approve, or approve with conditions requests for regulated use approval. Such decision shall include the standards relied upon, finding of fact, conclusions, approval or denial, and conditions, if any, attached to approval. Performance guarantees may be required by the planning commission, in accordance with section 2905, to ensure compliance with approval conditions.

(6) *Standards for granting regulated land use approval.* Notwithstanding the applicability of the following standards (general and specific) to the initial application, the planning commission may add conditions as to any particular use to preserve the public health, safety and welfare, except to the extent that the city is preempted from regulating a particular use due to the use being specifically regulated by state or federal regulations:

i. The submission of a detailed plan of operation/business plan that is sufficiently detailed to the satisfaction of the city attorney or administration.

ii. The location, scale, and intensity of the proposed use shall be compatible with adjacent uses and zoning of land.

iii. The proposed use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental to public health, safety, and welfare. Site layout shall be such that operations will not be objectionable to dwellings by reason of noise, fumes, glare or flashing lights.

iv. [Reserved.]

v. The proposed special land use shall be compatible and in accordance with the general principles and future land use configuration of the city's master plan and shall promote the intent and purpose of the Zoning Ordinance.

vi. The proposed use shall promote the use of land in a socially and economically desirable manner. The proposed use shall not adversely impact the social and economic well-being of those who will use the proposed land use or activity; residents and businesses; and landowners immediately adjacent; or the city as a whole.

vii. The proposed use must not be within 500 feet of a religious institution or building, a school, a nursery, or public library, another similar use or a single or multiple residential properties unless

there is a finding that such condition has no adverse impact to the particular use under consideration.

viii. The proposed use is compatible with the surrounding properties or meets the current zoning regulations of the district or corridor in which it is proposed.

ix. The proposed use is located in a structure that is in substantial compliance with current zoning and building regulations. If the proposed use is to be located in a building which is not compliant with the current zoning regulations, the building shall be modified to meet the ordinance standards to the extent feasible and shall be required to comply with all building regulations.

x. The proposed use is not likely to create a nuisance or disturbance to surrounding properties and also will not likely create a greater police presence.

xi. Where applicable the applicant has outlined a verification procedure which will be in place and will uniformly apply to all patrons/customers (i.e., a business must uniformly and consistently verify age or criminal records where those items are regulated and/or necessary).

xii. Where applicable, a security system is in place to monitor customer activity both inside and outside the business premises.

xiii. No owner or investor in the business has been convicted of a felony in the past seven years nor convicted of a misdemeanor involving moral turpitude, fraud, embezzlement, or the providing of false information.

xiv. Where applicable, the inventory or stock is sufficiently secured from intrusion by outsiders.

Depending upon the specifics or applicability of the request, additional conditions or requirements may be imposed by the planning commission.

(7) *Recording of planning commission action.* Each action taken with reference to a regulated land use proposal shall be duly recorded in the minutes of the planning commission. The minutes shall record the findings of fact relative to each special land use proposal, the grounds for action taken, and any conditions imposed in conjunction with approval. All records of proceedings shall be kept on file and made available to the public.

(8) *Effective duration of regulated land use approval.* Regulated land use approvals shall be granted to an individual applying for approval. Change in ownership or tenancy of the use will necessitate a review of the proposal by the administration and consultants and if deemed necessary, forwarded to the planning commission for re-review.

(9) *Amendments to regulated land uses.* When an application is received to expand or change the use, traffic pattern, or other elements of a regulated land use, the application shall be subject to the same procedures followed for an original approval of the land use.

(10) *Revocation of regulated land use approval.* Approval of a regulated land use proposal may be revoked by the planning commission if construction is not in conformance with the approved plans; there is a violation of any conditions on the approval; there is a deviation from the detail of the plan of operation/business plan submitted by the applicant or there is a substantial violation of any law, statute or ordinance applicable to the proposed use. In such a case, the administration shall place the previously approved regulated land use proposal on the agenda of the planning commission for consideration show cause hearing, and give written notice to the applicant at least 30 days prior to the hearing. The applicant shall be given the opportunity to present information to the planning commission. At the conclusion of the hearing, the planning commission shall render its decision with findings and determine what further action shall be taken. Should an adverse finding be made, the planning commission may impose sanctions consisting of reimbursement of expenses incurred by the city related to the hearing. No appeal shall be taken from this hearing except as allowed by law to the

circuit court. In the instance of a revocation of the regulated use, such action shall thereafter be sufficient to require any additional similar use to be treated in the manner as though it were an original application for a regulated use under this section of the Zoning Ordinance.

(Ord. No. 2012-02, pt. I, 3-26-2012)

ARTICLE 27. SITE PLAN APPROVAL

Sec. 2700. Applicability.

(a) *Site plan review not required.* Except as may be specifically required in this section, the site plan review requirements of this section do not apply to single-family detached and two-family dwellings and their accessory buildings and uses. In addition, site plan review is not required for the addition of landscaping or the performing of minor repairs or replacements to any building having a value of less than $5,000.00, so long as said landscaping, repairs or replacements are in accordance with, and does not modify or alter, the existing approved site plan.

(b) *Site plan review required.* A site plan shall be submitted to the planning commission for review and approval for the following:

(1) Any permitted or special land use within the city, except for home occupations, as defined by section 3903;

(2) Any modification and/or amendment to a plan that has previously received ~~special exception~~conditional use or special project approval from the planning commission;

(3) Any new construction, except single-family detached and two-family dwellings and their accessory buildings and uses including home occupations, as defined by section 3903;

(4) Any development or use for which submission of a site plan is required by any provisions of this article;

(5) Any proposal to construct, move, relocate, convert or structurally alter a building, including accessory buildings, except single-family detached dwellings and their accessory buildings and uses. A structural alteration shall be defined as one that changes the location of the exterior walls, height and/or the area of the building;

(6) Any use or development subject to the Michigan Condominium Act, Act 59 of the Public Acts of 1978, as amended;

(7) Any proposal to fill, excavate, or grade land, or temporarily store fill, which involves more than 15 cubic yards of earth being disturbed in any one-year period, except for gardening or for construction for which a permit has been obtained;

(8) Any change use group. A "use group" is defined as a collection of various uses, all of which share similar characteristics (such as parking requirements, traffic generation rates, etc.) and are identified by the type of business and/or service they provide i.e., retail, education, office, etc. Any change and/or conversion of use as permitted and regulated by this ordinance that may result in an increase in the intensity of the use by means of moving the use from one use group to another (office to retail, office to restaurant; retail to restaurant, etc.);

(9) Major facade changes, including, but not limited to, the following, shall be subject to full site plan review and approval by the planning commission:

a. Installation of new window and door openings where not previously existing;

b. Remodeling of upper story facades, if not already approved by planning commission;

c. Change of exterior building materials;

d. Other changes not noted above, that would alter the appearance of the entire building.

(10) Any proposal to have a designated or otherwise identifiable outdoor smoking area.

(c) *Administrative review*.

(1) In the following cases, the city manager and his/her assignee shall have the authority to approve a site plan without submission to the planning commission. Administration may require the submission of a site plan consistent with or less than the criteria set forth in sections 2701 to 2704 hereof:

a. Accessory uses incidental to a conforming existing use where said use does not require any variance, further site modifications, special use approval and is not located on a nonconforming lot or structure.

b. The conversion of an existing building from one use to another, use within the same use group (retail to retail, office to office, etc.) in the district provided the subject site is in conformance to the current ordinance standards, and has received site plan approval from the planning commission within the past five years of the date of the application.

c. Provision for additional loading/unloading spaces, parking and landscape improvements as required by this article.

d. Changes in use in a planned shopping center within the same use group, where off-street parking is not affected and a site plan has been approved within the past five years.

e. Installation of new awnings or other window/doorway details not previously existing.

f. Minor structural alterations to building intended to bring the building into compliance with the Americans with Disabilities Act requirements.

g. Establishment of a home occupation as defined by and subject to the provisions of section 3903.

h. Minor facade changes, which shall include the following:

1. Repair of existing exterior building material with similar materials only;

2. Replacement or repairs of existing doors and windows;

3. Replacement or repairs to existing awnings;

4. Replacement of light fixtures;

5. Restoration of original building architectural features (as supported by historical data);

6. Replacement of existing signage;

7. Installation of new signage;

8. Removal of nonconforming signage;

9. Addition of landscape elements such as planter boxes, etc.;

10. Installation of streetscape improvements such as benches, art pieces, etc.

i. Change of use in a "development ready" building i.e., an existing building within the CBD that has received site plan approval from the planning commission and is in conformance to the design criteria set forth in section 2118(1).

j. Any construction project or landscaping changes having a value of less than $5,000.00 and that will modify or amend the existing approved site plan.

(2) All facade/site changes shall be reviewed by the city planner to verify compliance with the ordinance and to provide recommendations to the city administration. The administration reserves the right to

grant final approval (with or without changes) or forward the proposed changes to the planning commission. However, if applicant is not in agreement with any proposed change or condition for approval requested by administration, applicant may request full planning commission site plan review under section 2700(a).

(3) Information required. The city manager and/or his assignee shall require all applicable criteria set forth in sections 2701 to 2704 hereof to be met, and shall also have the authority to waive information required in section 2701 hereof which is not necessary to determine whether site plan review requirements have been met.

(4) Authority. The city manager and/or his assignee shall also have the authority to refer any site plan eligible for administrative review under section 2700.2 hereof to the planning commission and/or any consultants employed by the city for the purpose of supplementing or initiating a site plan review.

(5) Fees for administrative review shall be established by resolution of the city council which may assist in the reimbursement of consultant fees and time expended by the city staff.

(Ord. No. 2012-03, pt. I, 3-26-2012; Ord. No. 2013-17, 8-26-2013)

Sec. 2701. Site plan application information.

(a) *Required information.* The following information and documents are required as the site plan submittal. The planning commission is authorized to reduce the information required in cases where it finds such information unnecessary or inappropriate to consideration of the particular application.

(1) Applicant's name and address.

(2) Name of the proposed development.

(3) Signature of the legal owner, if not the applicant, and proof of ownership.

(4) Name, address, and phone number of the firm or individual who prepared the site plan.

(5) Complete legal description of the property.

(6) Date, including revision.

(7) Plans shall be drawn to a scale not larger than one inch equals 40 feet (i.e., plans at one inch equals 100 feet will not be accepted).

(8) North arrow.

(9) Inserted location sketch showing location of subject property in the mile section.

(10) The seal of one or more of the following: registered architect, registered civil engineer, registered land surveyor, registered landscape architect, or registered community planner.

(11) Existing and proposed grades at all lot corners and catch basins, proposed and existing building corners and entry points, and at a plan grid interval of not more than 50 feet along all lot lines, road centerlines, and on the site and beyond for at least 50 feet. Any proposed change of more than 24 inches in the existing grade shall require specific approval by the planning commission as part of a site plan, taking into consideration any potential adverse impacts on abutting residential properties or zones.

(12) Existing zoning and zoning of adjacent properties within 200 feet.

(13) Existing building(s) and street(s) on-site and within 200 feet of site.

(14) Centerline and existing and proposed rights-of-way lines of all street and roads on property or adjoining it. Illustrate the location of off-site driveways within 200 feet (may be included on a separate

sheet at a smaller scale than one inch equals 40 feet; for example, one inch equals 100 feet is acceptable).

(15) Boundaries of subject property, including distances and bearings.

(16) Proposed buildings and structures on property, including: off-street parking areas, aisles and drives; walkways, walls, carports,; dimensions of improvements; and acceleration, deceleration, and passing lanes; designation of fire lanes and/or other areas in which parking will be prohibited.

(17) Trash receptacle location, size and details regarding method of screening in accordance with section 2807.

(18) Location, size, description and method of screening for mechanical equipment such as blowers, ventilating fans and air conditioning units in accordance with section 2120.

(19) All existing and proposed sidewalks or walkways within the right-of-way of adjoining roads or streets.

(20) Sufficient information describing the proposed use and occupancy of the premises to ascertain compliance with the use regulations of the district.

(21) As applicable, number of dwelling units, number of bedrooms, number of off-street parking spaces, number of off-street parking spaces per dwelling unit and per bedroom, percentage of land covered by buildings, total and usable floor areas for purposes of determining off-street parking requirements in accordance with section 2403.

(22) Demonstration of compliance with section 2404, off-street parking lot layout, construction and maintenance.

(23) Off-street loading and unloading for every building, structure, or part thereof occupied for manufacturing, storage, warehousing, retailing, wholesaling or other uses involving the receipt or distribution of vehicles or materials or merchandise.

(24) Proposed landscape treatments including pedestrian amenities and screen walls if required in accordance with article 28.

(25) Landscaped stabilization zones for development abutting the Clinton River, Paint Creek and/or Stony Creek in accordance with section 2805.

(26) Tree survey identifying the location and type of all trees seven inches or greater diameter at breast height and all conifers greater than 20 feet in height in accordance with section 20-62 [of the Code of Ordinances].

(27) Description of utilities, including: storm drainage; sewage disposal; electrical distribution; telephone and/or television system; natural gas distribution; exterior lighting; water distribution and source; fire hydrant locations; proposed method of solid waste storage, collecting and disposal.

(28) The covering letter, signed by the owner and prospective developer holding an equitable interest in the property, shall include: legal description and acreage of property; existing zoning classification and proposed zoning classification, if different; general description of proposed development; and estimated timetable of development.

(29) The site plan shall be accompanied by architectural sketches showing elevations (front, side and rear views), types of proposed facing materials, maximum heights of the building under consideration, and a roof plan of any proposed equipment to be located on the rooftop. Projects must submit adequate detail to demonstrate compliance with sections 2116, residential infill housing development standards, and section 2118, architectural guidelines and standards for nonresidential and mixed-use buildings and projects, where applicable. In RM-1, RM-2, O-1, O-2, B-1, CBD, and RP , T, DE-1, DE-~~2~~1, MU, MU-2 Districts, the site plan package shall also include architectural sketches showing the relationship of the subject building to buildings located on immediately abutting sites and within 200 feet, including any

located to the rear. In order to clearly demonstrate the impact of the proposed building height and bulk on neighboring buildings, one of the following shall also be provided:

a. A "block form model" or "study model" of the proposed building and all buildings on adjoining sites showing the size, shape, roofline, and major building features like doors and windows; or

b. A color photograph of the site and its adjoining buildings with the proposed new building drawn or painted, in scale and proper perspective; or

c. An active, computer generated video display of the proposed building that demonstrates its relationship to all adjoining buildings in terms of height, setbacks, and building bulk.

In cases of minor structural alterations or modest additions to existing buildings, the planning commission may waive this requirement where they find that it would not be necessary for their thorough consideration of the site plan.

(30) Site plans must demonstrate compliance with the applicable supplementary district regulations of article 21.

(31) As applicable, the site plan submittal shall be accompanied by an application form, furnished by the administrative official, for rezoning, ~~special exception~~conditional use, or zoning compliance permit.

(32) Exterior lighting plan and design in accordance with section 2306.

(33) The location of any ground mounted signs shall be shown on the site plan. Detailed information required by section 2208 may be submitted concurrent with the site plan or may be deferred until application for sign permit review.

(34) Upon request by the city for special project and ~~special exception~~conditional uses, the applicant shall, to the extent practical and available, provide information regarding the financial impact the project will have on the city including, but not limited to the following:

a. Documentation supporting the financial representations made.

b. Documentation supporting jobs created or to be created in the city.

c. Documentation supporting representations made concerning anticipated taxable value additions for the city.

d. Documentation supporting representations made concerning impact of project to the city's infrastructure and utilities.

For all other projects requiring site plan reviews, the applicant may provide such financial impact information, but is not required to do so.

(35) For all special projects proposed under the special projects ordinance (section 2115) that involve historical preservation or rehabilitation, the applicant shall provide a report and supporting documentation required under section 2115(b)(7).

(36) For projects proposing a designated or otherwise identifiable outdoor smoking area, applicant shall submit a plan showing the smoking area and the location of all entrances, windows and ventilation systems of the applicant's building and any adjacent buildings, as well as the details of trash and smoking receptacles, benches and seating areas.

(b) Optional information. The following information and documents are not required, but may be provided by the applicant as part of the site plan submittal.

(1) Information may be provided regarding the development timelines of the project including, but not limited to:

a. Documentation supporting the timeline representations made.

b. Documentation concerning necessary property acquisition.

c. Documentation concerning project development or timing requirements (i.e. infrastructure, facility or equipment needs), client servicing needs or timing factors, or business process needs or expectations (i.e. utility utilization).

(Ord. No. 2008-04, art. 1, 3-10-2008; Ord. No. 2011-02, 2-14-2011; Ord. No. 2013-01, 1-14-2013; Ord. No. 2013-17, 8-26-2013; Ord. No. 2014-08, 7-14-2014)

Sec. 2702. Preapplication conference.

(a) Upon request of the applicant, a preapplication conference shall be granted with the planning commission or the zoning administrator, to facilitate clarification of requirements before undertaking preparation of preliminary site plans and information.

Sec. 2703. Action on site plan.

(a) *Application submittal and planning commission consideration.*

(1) Upon receipt of an application for site plan approval, city administration will submit the application to the city's planning consultant for initial review to determine whether materials submitted are complete and ready for planning commission consideration. If not complete, applicant will be notified of deficiencies and advised that resubmittal will be required.

(2) Once the applicant's site plan application is deemed complete and ready for planning commission consideration, the applicant's site plan application package, along with the planning consultant's review letter, will be submitted to planning commission for consideration at the next available planning commission meeting.

(3) At the planning commission meeting, the planning consultant will provide the consultant's review, and the applicant will present the project and address outstanding items or questions raised by the planning consultant. Planning commission will either set the matter for public hearing at the next available planning commission meeting (with or without requested plan modifications) or if not deemed ready for public hearing, may direct the applicant to return to a future planning commission meeting with a revised site plan application package.

(4) Once planning commission sets the required public hearing, the city will send out notices and advertise the public hearing. The notice of public hearing shall be published in a newspaper of general circulation in the city and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet, regardless of whether the property or occupant is located in the City of Rochester. The notice shall be given not less than 15 days before the public hearing. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, business or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas or organization, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

a. State that a public hearing has been set.

b. Indicate the property, which is the subject of the request. The notice shall include a listing of all existing street addresses within the property.

c. State when and where the public hearing will be held.

d. Indicate when and where written comments will be received concerning the request.

(5) After the public hearing, planning commission will approve, disapprove, or request modification of the site plan and/or additional information. A resubmittal by the applicant of a modified site plan will be acted on by the planning commission within 45 days after receipt of the modified site plan and additional information.

(b) The approval of a site plan under this section does not waive the requirement for a zoning compliance permit or a certificate of occupancy. In any case where rezoning of the land would be required to allow the proposed development and/or use of the property as provided for in the site plan, approval of the site plan by the planning commission shall be considered contingent upon rezoning of the subject property by the city council; such site plan approval shall not be construed as any assurance of such rezoning.

(c) Where the development and/or use of the subject property would require the approval and recording of a plat, the approval of the site plan by the planning commission shall not be construed to assure any action by any other agency, nor shall it be construed as necessarily establishing compliance with the subdivision control ordinance or any other ordinance.

(d) In the case where a site plan is required, the administrative official shall not issue a zoning compliance permit or building permit except for plans, specification, and usage that conforms to the site plan as approved by the planning commission.

(e) Failure to comply with and/or deviate in any material way from an approved site plan shall constitute a violation of the zoning ordinance pursuant to article 37. For purposes of this section, a "material" deviation shall include, but is not limited to, a deviation from specific requirements, conditions and/or limitations of the city ordinances, the planning commission, or building codes, such as height, setbacks, parking, safety, screening, buffering, noise, lighting and square footage requirements. A material deviation shall also include a change in color or the substitution of lesser quality of exterior materials from that which was presented for approval.

(Ord. No. 2011-02, 2-14-2011; Ord. No. 2022-02, § 1, 9-26-2022)

Sec. 2704. Criteria for site plan approval.

The planning commission shall use the following criteria in evaluating a site plan submittal:

(1) Has the required information been furnished in sufficiently complete and understandable form to allow an accurate description of the proposed use(s) and structure(s) in terms of density, location, area, height, bulk, placement, setbacks, performance characteristics, parking, and traffic circulation?

(2) Are there ways in which the configuration of uses and structures can be changed which would improve the impact of the development on adjoining and nearby properties, persons, and activities, and on the community, while allowing reasonable use of the property within the scope of district regulations and other regulations of this ordinance that are applicable to the property and proposed use and structures?

(3) The extent to which natural features and characteristics of the land will be preserved; the regard given to existing large trees, natural groves, water courses, and similar natural features that would add attractiveness to the property and environs if they were preserved; the preservation of the natural drainage system, the dedication and/or provision of landscaped stabilization zones described in section 2803 along Paint Creek, Stony Creek, and the Clinton River, natural buffering, and other techniques for preservation and enhancement of the physical environment.

(4) Are there ways in which the design of the building and its architectural or decorative elements can be modified to improve the impact on adjoining properties and uses, particularly with regard to its compatibility with the traditional character of the city's downtown business district, when appropriate?

(Ord. No. 2002-03, § 2, 3-25-2002)

Sec. 2705. Definitions.

(a) As used in this ordinance, the term "site plan" includes the documents and drawings specified in this zoning ordinance necessary to ensure that a proposed land use or activity is in compliance with this zoning ordinance and state and federal statutes.

(b) The review and approval of site plans shall be by the city planning commission.

(c) The site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change conforming to this zoning ordinance received the mutual agreement of the land/owner and the city planning commission.

(d) A site plan shall be approved if it contains the information required by this zoning ordinance and is in compliance with this zoning ordinance and the conditions imposed hereunder pursuant to section 2604, conditions of approval, other applicable ordinances, and state and federal statutes.

Sec. 2706. Conformity to approved site plan required.

(a) Following approval of a site plan by the planning commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this article and subject to sanctions set forth in the City Code.

(b) Upon completion of the required improvements per the approved site plan, the city shall inspect the property and issue a certificate of occupancy.

(c) Any minor variations or changes to the site plan as defined in section 2700.2(a) may be approved by the city manager and his/her assignee and shall be reported to the planning commission after issuance of the certificate of occupancy. Any other changes to the site plan shall require the submission of an amended site plan indicating the change and will require planning commission approval.

(Ord. No. 2012-03, pt. II, 3-26-2012)

ARTICLE 28. LANDSCAPING, SCREEN WALLS AND WOODLANDS PROTECTION[2]

Sec. 2800. Landscaping plan.

A landscaping plan shall be provided as a part of all required site plans, subdivision plats and condominium plans that demonstrates the following:

(1) The landscaping plan may be combined with the site plan and processed as a part thereof; if the landscaping plan is submitted separately, it shall be subject to the procedural and informational requirements of a site plan. The landscaping plan shall specify: ground cover; location, quantities, species, and size of plants materials; berms, surface drainage and outlet; location of existing trees having caliper of six inches measured at 4½ feet above ground level, and designation of trees to be retained. It shall be unlawful for the owner or developer of any property to remove existing trees and/or vegetation after submitting building plans, plot plans and/or site plans; or within 12 months prior to submitting such plans, except in conformance with section 2808. Nothing in this subsection

[2][**Reference note—**Whenever landscaping (including greenbelts) or screen walls may be required by this ordinance, or where existing trees are proposed for removal, the following requirements shall be satisfied.]

shall be construed to prevent the removal of a diseased tree or a tree that has become dangerous due to storm or similar damage, provided the city has granted permission to remove such tree(s).

(2) Provisions for protecting trees on-site and on adjoining properties during construction, and preservation of trees in connection with grading and drainage shall be provided. All trees to be retained shall be protected from heavy equipment, material storage, and other construction activities by temporary fencing at the drip lines and posting of signs prohibiting encroachment with that area during construction.

(3) Wherever a greenbelt is required the composition and relative quantities of plant materials shall be selected to achieve substantial visual screening throughout all seasons of the year.

(4) Landscaping shall be provided in all required front setbacks, including those abutting side streets.

(5) Minimum requirements established. A minimum of ten percent of the total site area of any use requiring site plan approval shall be developed as landscaped open space. All such minimum required open space shall be located in a front, side and/or rear yard. Pedestrian plazas, planters, and other decorative elements may be included in such landscaped areas. The specific location of all required landscaped areas shall be chosen to provide the greatest visual and acoustical benefit to nearby residences and neighborhoods, as determined by the planning commission.

(6) Plant species used for required landscaping and greenbelts shall be chosen as follows:

a. Trees and shrubs should be selected that can tolerate our climatic zone, as well as, the stresses particular to the site, such as existing shade, salt tolerance if near the street, heat or scorch residence if in a parking island, disease and insect resistance, and the like.

b. Certain tree species shall not be used if they are on the city's prohibited list or they are considered less desirable because of overplanting. Information on overplanted species will be provided by the city's parks superintendent upon request of an applicant.

(7) The city's current tree policy manual shall be used as the guide for determining proper spacing of specific species and for guidelines regarding planting within clear vision triangles formed at street and driveway intersections.

Sec. 2801. Pedestrian amenities and landscape requirements.

In accordance with the City of Rochester's adopted design guidelines, landscaping in the city's Central Business District shall be designed to encourage and promote pedestrian activity throughout the area. Pedestrian street furniture and amenities such as benches, trash receptacles, newspaper stand, bicycle racks, and lighting fixtures shall be consistent with the character of the surrounding architecture and shall be standardized designs and style selected and approved by the city and the downtown development authority in order to establish and maintain an identity for the downtown district. Public artwork and outdoor cafes shall be also encouraged within the district. Approved amenities shall be incorporated into required landscape plans for proposed development in the district. In addition to the applicable landscape requirements of section 2800, the following requirements apply to development within the CBD:

(1) *Pavement and landscape materials.*

a. An unobstructed pedestrian path of eight feet shall be maintained in front of all buildings in the CBD, as follows:

1. On Main Street, the unobstructed path shall be eight feet.

2. On Walnut Street the unobstructed path shall be at least six feet.

3. On all other streets in the CBD, the unobstructed path shall be at least five feet.

b. Textured pavement material including approved brick or pigmented concrete pavers should be used to distinguish pedestrian pathways within the district.

c. For healthy growth and maintenance, shrubs and plantings shall be placed in planting beds rather than turf areas. Low water-requiring plants shall be selected where possible.

(2) *Pedestrian amenities.*

a. Approved amenities including landscape beds and street furniture shall be placed in the five-foot space between the curb face and the eight-foot-wide pedestrian path designated as the amenity zone. Planting beds and pedestrian amenities shall be located a minimum of 2½ feet from the curb face where existing on street parking occurs to prevent conflict with pedestrian access to parked vehicles. In areas where travel lanes adjoin the curb all amenities shall be set back a minimum of 3½ feet.

b. The use of planter walls a minimum of 2½ feet in height should be encouraged to provide for additional seating opportunities within the district.

c. Bicycle racks are encouraged in the district at a rate of one per each 20 parking spaces available in the district. Bicycle parking spaces shall be a minimum of two feet by six feet in area with adequate room for maneuvering. Bicycle racks located in amenity zones shall be placed near building entrances or situated so that they are visible from inside the adjacent building, but not within the street right-of-way unless they are city-owned or sponsored by the DDA.

d. Outdoor lighting shall be consistent with the requirements of section 2306. Approved pedestrian lighting fixtures shall be used and shall provide a minimum of one footcandle of low-intensity high quality light for uniform visibility and pedestrian safety.

e. Required amenity zones shall include a minimum of three or more pedestrian amenities. Amenities include but are not limited to:

1. Approved trash receptacles.

2. Approved benches/low screen walls.

3. Bicycle racks.

4. Container plants.

5. Public art.

6. Pedestrian lighting.

7. Street trees.

f. Applicants shall refer to the appendix A of the city's design guidelines regarding specifications for approved paving materials as well as pedestrian furniture such as seating, bicycle racks, trash receptacles, and light fixtures. See specific fixtures and pavement types for the CBD identified in appendix A of the city's design guidelines.

(Ord. No. 2004-05, 3-22-2004)

Sec. 2802. Reserved.

Editor's note(s)—Ordinance No. 2011-02, adopted Feb. 14, 2011, deleted § 2802, which pertained to street trees, and derived from Ord. No. 2004-06, adopted March 22, 2004. The user is directed to ch. 20, art. II, of the Code of Ordinances for similar provisions.

Sec. 2803. Establishment.

(a) Inspection for the acceptance of plant material will be made during the September following the period of establishment. This period of establishment shall start at the completion of all the planting required for the entire project and shall extend through a complete growing season consisting of the months of June, July, and August. During the period of establishment the developer shall be responsible for planted materials; plants which fail to survive shall be removed and replacement planting shall be completed during the next planting season.

(Ord. No. 2004-07, 3-22-2004)

Sec. 2804. Screen walls.

(a) Wherever a nonresidential use adjoins a residential district, a screen wall shall be provided by the nonresidential use as specified below. For purposes of this section, a parking lot of four or more spaces is a nonresidential use.

(b) Wherever a nonresidential use adjoins a residential use in a nonresidential district, screening shall be installed and maintained by the nonresidential use along lot lines in accordance with the below requirements; provided, however, that the planning commission may approve in substitution for a masonry wall, a wood screen or other substitutions described in subsection (e)(5) of this section, or may waive screening requirements where no substantial benefit would result from the screening. The height of a required wall shall be measured from the residential side; provided, however, that no such wall shall exceed eight feet in height as measured on the nonresidential side in office or commercial districts. If the planning commission determines that a wall is required on the residential side which will result in a height of more than eight feet on the business side, the plans shall provide for a stepped or terraced design, with appropriate landscaping, so that no more than an eight-foot-high wall is necessary on the business side.

(c) Wherever a wall is not required by this ordinance by virtue of its location in a residential district, it shall nevertheless be subject to the design standards and procedures of this section.

(d) A screen wall shall be installed along all lot lines of the nonresidential use where the lot lines adjoin a residential district. In the case of a parking lot, a screen wall shall be installed to screen the parking lot from a residential district separated from the parking lot property by a right-of-way of less than 86 feet width.

(e) The design plans for the screen wall shall be reviewed and approved or disapproved by the city planning commission. The design standards shall be as follows:

(1) Along side and rear lot lines of the nonresidential use, the wall height required by the planning commission shall be measured from the prevailing grade of the residential use being protected.

(2) Along the front lot line or corner side lot line, the wall shall be 4.5 feet in height from the prevailing grade of the nonresidential property adjoining the wall.

(3) Where a setback of a parking lot from a front lot line or corner side lot line is required under section 2404(4), no screen wall shall extend more than one foot into the applicable parking lot setbacks.

(4) The wall shall be of masonry construction, be designed to well withstand frost heave, hydrostatic pressure, the effects of weather, and be protected from vehicles by bumper guards or setbacks. The appearance of the wall in terms of material, design, and workmanship shall be beneficial to the residential districts.

(5) The planning commission may: approve in partial or complete substitution for the wall(s) the use of existing and or proposed topography, dense vegetation, or other natural or manmade features that would produce substantially equivalent results of screening, and durability; approve reduction or increase in wall height where a lesser or greater height is found appropriate based on considerations of

topography, sight lines, and distances; approve variations in the design standards for reasons of topography or characteristics peculiar to the site, its usage, and environs. In taking such actions, the planning commission shall take into account that the principal purpose of the wall(s) is to screen nonresidential activities, including parking, loading and noise, from nearby residential districts. In such cases where the planning commission finds that there would be no substantial need for a screen wall, the requirements of this section may be waived, reduced, or substituted. For example, the planning commission might find that a church, school, or park in a residential district without a screen wall would pose no significantly adverse effect on adjoining residential areas. The basis for such decision shall be recorded in the minutes of the planning commission.

(f) The design plans of the screen walls shall be incorporated with the site plan submittal, if a site plan is required, in accordance with article 27 of this ordinance; otherwise the design plans of the screen wall shall be subject to the informational requirements of section 2701 of article 27, except subsections (12), (13), and (15).

(g) The scale of the plans shall be as follows:

(1) Typical cross section and elevations of the wall shall be one inch equals one foot.

(2) Overall plan of the wall shall be not less than one inch equals ten feet.

(3) Both the cross section and plan drawings shall clearly show the relationship of the wall to adjoining properties and buildings in terms of grades, drainage, distances, and screening effect. The materials and dimensions of the wall shall be specified.

(Ord. No. 2004-07, 3-22-2004)

Sec. 2805. Landscaped stabilization zones.

All development in every zone abutting the Clinton River, Paint Creek and/or Stony Creek shall be required to establish a landscaped stabilization zone along the banks of the waterway for erosion control and protection of the waterway banks. Landscaping with appropriate wetlands or stream bank plant materials shall be the only activities permitted within the landscaped stabilization zone. No construction of buildings, fences, retaining walls or the like shall be permitted. The design of the landscaping and the type of plant materials chosen shall be intended to stabilize the banks, prevent erosion, and protect and improve the area adjacent to the waterway for scenic enjoyment and public use at locations identified by the planning commission and city council. Landscaped stabilization zones shall be provided as follows:

(1) On all properties abutting Stony Creek, the owner or developer shall establish and maintain a landscaped stabilization zone of 30 feet wide above the base flood elevation, as identified on the flood insurance rate map of the Federal Emergency Management Agency.

(2) On all properties abutting the Clinton River and Paint Creek, the owner or developer shall establish a landscaped stabilization zone of 30 feet wide above the base flood elevation, as identified on the flood insurance rate map of the Federal Emergency Management Agency. The owner or developer may, at his/her option, grant an easement to the city permitting public access and development of a public walkway. Once this easement has been granted to the city, control of public access and the maintenance of the plant materials within the easement shall be the responsibility of the city. Nothing in this section shall preclude the city from acquiring an easement for public access through negotiation with the owner or by condemnation proceedings.

ARTICLE 29. ADMINISTRATION AND ENFORCEMENT

Sec. 2900. Administration and enforcement.

(a) An administrative official designated by the legislative body shall administer and enforce this ordinance. He may be provided with the assistance of deputy administrative officials as the legislative body may direct.

(b) If the administrative official shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

Sec. 2901. Duties and limitations of the administrative officials.

(a) The administrative official shall have the authority to grant zoning compliance permits and certificates of occupancy, and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance. It shall be unlawful for the administrative official to approve any plans or issue a zoning compliance permit for any excavation, construction or use until he has inspected such plans in detail and has found them in compliance with this ordinance. To this end, the administrative official shall require that every application for a zoning compliance permit for excavation, construction, moving, alteration, or change in type of use or types of occupancy, shall be accompanied by a written statement and plans or plats drawn to scale showing the following in sufficient detail to enable the administrative official to ascertain whether the proposed work or use is in conformance with this ordinance:

    (1) The actual shape, location, and dimensions of the lot. If the lot is not a lot of record, sufficient survey data to locate the lot on the ground.

    (2) The shape, size, and location of all buildings or other structures to be erected, altered, or moved, and of any other buildings or other structures already on the lot.

    (3) The existing and intended use of the lot and of all structures upon it.

    (4) Such other information concerning the lot or adjoining lots or other matters as may be essential for determining whether the provisions of this ordinance are being observed.

(b) If the proposed excavation, construction, moving, alteration, or use of land as set forth in the application is in conformity with the provisions of this ordinance, the administrative official shall issue a zoning compliance permit. If an application for such permit is not approved, the administrative official shall state in writing on an appropriate denial form the cause for such disapproval.

(c) The administrative official may accept a preliminary application and a lesser number of submitted documents than those listed above in situations where a basic clarification is desired ahead of proceeding with further technical work; and the administrative official may on such preliminary submittal take the formal action of tentative denial or tentative approval.

(d) Issuance of a zoning compliance permit shall in no case be construed as waiving any provision of this ordinance. The administrative official is under no circumstance permitted to grant exceptions to the actual meaning of any clause, order, or regulation contained in this ordinance to any person making application to excavate, construct, move, alter, or use either buildings, structures, or land. The administrative official is under no circumstance permitted to make changes to this ordinance or to vary the terms of this ordinance in carrying out his duties.

(e) The administrative official shall not refuse to issue a permit when the applicant complies with conditions imposed by this ordinance. Violations of contracts, such as covenants or private agreements, which may result upon the granting of said permit, are not cause for refusal to issue a permit.

(f) When the legislative body has officially adopted a plan under the Rehabilitation of Blighted Areas Act, Act 344, [Public Acts of] 1945, as amended, or Mapped Improvements Act, Act 222, [Public Acts] of 1943, or Neighborhood Area Planning Act, Act 208, P.A., as amended, the administrative official shall not issue a permit under the provisions of the ordinance where the proposal is not in compliance with the plan adopted under one of the above acts as it pertains to that particular lot.

Sec. 2902. Zoning compliance permits.

(a) It shall be unlawful to commence or conduct any of the following until the administrative official has issued a zoning compliance permit for such work or change:

(1) The excavation, construction, reconstruction, repair, moving, or alteration of:

a. Any building or structure for which a building permit is required by the building code; or

b. Any parking lot, sign (see definition), tower, bridge, dock, and any structure having a cost or value of more than $500.00.

(2) A change in the use or occupancy of any building or land to a type of use or occupancy which is not expressly permitted by the district's regulations specified in this ordinance.

(b) The zoning compliance permit shall include a certificate by the administrative official of his opinion that plans, specifications, and description of such use(s) and structure(s) do in all respects conform to the provisions of this ordinance. See section 2703[(d)] on conformance to an approved site plan.

(c) In all cases where a building permit is required, application for a zoning compliance permit shall be made coincident with the application for a building permit and in all other cases shall be made not less than ten days prior to the time when a new or enlarged use of a building or premises or part thereof is intended to begin. The application shall be made in writing to the administrative official on forms provided for that purpose. A record of all such applications shall be kept on file by the administrative official. Any zoning compliance permit issued under the provisions of this ordinance shall be valid only for a period of 12 months following the date of issuance thereof. When the administrative official receives an application for a zoning compliance permit which requires city planning commission ~~special exception~~conditional use, or other approval, he shall so inform the applicant.

Sec. 2903. Fees.

(a) Before any zoning compliance permit shall be issued, all inspection fees shall be paid in an amount fixed by a schedule established by ordinance of the legislative body.

Sec. 2904. Certificate of occupancy.

(a) No building or structure or use for which a zoning compliance permit has been issued shall be used or occupied until the administrative official has, after final inspection, issued a certificate of occupancy indicating his opinion that all the provisions of this ordinance are being complied with. The issuance of a certificate of occupancy shall in no case be construed as waiving any provisions of this ordinance.

(b) Change of use and/or tenancy in all nonresidential structures or properties shall require a new certificate of occupancy. Forms for obtaining a certificate of occupancy are available from the city clerk and any fees shall be established by resolution of city council.

(Ord. No. 2011-09, 6-27-2011)

Sec. 2905. Performance guarantee.

(a) As used in this section, [the term] "improvements" means those features and transactions associated with a project which are considered necessary by the administrative official to protect natural resources or the health, safety, and welfare of the residents of a city, and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening and drainage. The term "improvements" does not include the entire project which is the subject of zoning approval.

(b) To ensure compliance with a zoning ordinance and any conditions imposed under this ordinance, the city may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the city covering the estimated cost of improvements associated with a project for which a zoning compliance permit is sought, be deposited with the clerk of the city to ensure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the zoning compliance permit. The city may not require the deposit of the performance guarantee before the date on which the city is prepared to issue the permit. The city shall establish procedures under which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses.

(c) This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to Act No. 288 of the Public Acts of 1967, as amended, being sections 560.101 to 560.293 of the Michigan Compiled Laws.

ARTICLE 30. BOARD OF APPEALS

Sec. 3000. Establishment and procedure.

(a) A board of appeals is hereby established which shall be constituted, perform the duties, and exercise the powers provided for by the MZEA Act, Act 110, Public Acts of 2006, as amended, and this ordinance.

(b) The board of appeals shall consist of not less than five members, each to be appointed for a term of three years. Initial appointments shall be of one, two, and three years, respectively, so as nearly as possible to subsequently result in the appointment of an equal number of members each year, depending on the number of members; thereafter each member to hold office for the full three-year term. A successor shall be appointed not more than one month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

(c) The city council may appoint not more than two alternate members for the same term as regular members of the board of appeals. An alternate member shall sit as a regular member of the board of appeals in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall have the same voting rights as a regular member of the board of appeals.

(d) The city council may authorize the remuneration of the members of the board for attendance at each meeting.

(e) Members of the board of appeals may be removed from office by the city council for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure to do so constitutes malfeasance in office.

(f) The board of appeals shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the chairman and at such other times as the board may determine. The chairman or, in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The city clerk shall be

responsible for acting as secretary, and for providing secretarial services for the zoning board of appeals. The city attorney shall act as legal counsel for the board and shall be present at meetings upon request of the board.

(g) The board of appeals shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its official actions, all of which shall be a public record and be immediately filed in the office of the city clerk. A copy of each decision of the board shall be sent promptly to the applicant or appellant involved, the city manager, the chairman of the planning commission, and the mayor.

(h) The concurring vote of a majority of the members of the board shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which they are required to pass under an ordinance, or to affect a variation in an ordinance.

(i) The board of appeals shall fix a reasonable time for the hearing of the request and give notice in a newspaper of general circulation in the city. For requests for a variance or an interpretation or appeal which involves a specific parcel, notice shall also be given by mail or personal delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet regardless of whether the property or occupant is located in the city. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, business or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas or organization, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall be given not less than 15 days before the request will be considered. An affidavit of mailing or delivery of notices of the hearing shall be filed with the board by delivering the same to the secretary prior to the meeting at which the hearing is to be held. The notice shall:

    (1) Describe the nature of the request.

    (2) Indicate the property, which is the subject of the request. The notice shall include a listing of all existing street addresses within the property.

    (3) State when and where the request will be considered.

    (4) Indicate when and where written comments will be received concerning the request.

(j) Upon the hearing, a party may appear in person or by agent or by attorney.

(k) The decision of the board of appeals shall not become final until the expiration of five days from the date of entry of the order, and service of the order upon the applicant or appellant, unless the board shall find the immediate effect of the order is necessary for the preservation of property or personal rights and so certify on the record.

(Ord. No. 2009-07, pt. 5, 3-9-2009)

Sec. 3001. Powers and duties.

The board of appeals shall have the following powers and duties:

(1) *Appeals.* To hear and decide appeals from and review any order, requirements, decision, or determination made by an administrative official or body charged with the enforcement of the zoning ordinance.

a. An appeal may be taken by any person aggrieved by an officer, department board, or bureau of the city.

b. An appeal under this section shall be taken within 20 days by the filing with the officer or body from whom the appeal was taken and with the board of appeals a notice of appeal specifying the grounds for the appeal. Any appeal shall be in writing on a standard form available from the city clerk and accompanied with a payment of a fee in accordance with the schedule of fees adopted by the city council. The officer or body from whom the appeal is taken shall transmit to the board of appeals all the papers constituting the record upon which the action appealed from was taken.

c. An appeal stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the board of appeals after the notice of appeal is filed, that by reason of fact stated in the certificate, a stay would, in the opinion of the officer or body, cause imminent peril to life or property, in which case the proceedings shall not be stayed other than by a restraining order which may be granted by the board of appeals or by the circuit court.

d. In exercising the above powers, the board of appeals may so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision, or determination as in the board's opinion ought to be made in the premises, and to that end shall have all the powers of the officer or body from whom the appeal is taken.

(2) *Variances.* To authorize upon application in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special condition, a literal enforcement of the provisions of this ordinance would result in practical difficulties (e.g., dimensional requirements such as lot area and width regulations, building height regulations and yard width and depth regulations). The application for a variance shall not be construed as an appeal from a decision made by or an alleged error of the administrative official or body.

a. A written application for a variance shall be submitted demonstrating:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same district.

2. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.

3. That the special conditions and circumstance do not result from the actions of the applicant.

4. That the request relates only to the property that is under the control of the applicant, e.g., ownership, option, to purchase, long term lease.

5. That the application states the owner's full name and address and is signed by the owner if the owner is not the applicant.

6. That an application for the same variance has not been submitted in the previous 12 months unless the applicant can show there has been a change in the existing conditions.

b. Before granting a variance, the board of appeals shall make findings that: the requirements of subsection (2)a of this section have been met by the applicant for a variance; the reasons set forth in the application justify the granting of the variance; the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be

injurious to the neighborhood or otherwise detrimental to the public welfare; and the spirit of this ordinance shall be observed, public safety secured, and substantial justice done.

c. In granting any variance, the board of appeals may prescribe appropriate conditions and safeguards, which shall be in writing. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under article 37.

d. Under no circumstances shall the board of appeals grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

(3) *Interpretations.* To hear and decide questions that arise out of the administration of this zoning ordinance, including the interpretation of the zoning map. Article 2, subsection 7 empowers the board of appeals to interpret district boundaries where physical or cultural features on the ground are at variance with the zoning map.

(Ord. No. 2009-07, pt. 5, 3-9-2009)

Sec. 3002. Appeals from the board of appeals.

(a) Any person or persons, or any taxpayer, department, board or bureau of the municipality aggrieved by any decision of the board of appeals may seek review by a court of record of such decision, in the manner provided by the laws of the state and particularly by the MZEA Act, Act 110, Public Acts of 2006, as amended.

(Ord. No. 2009-07, pt. 5, 3-9-2009)

Sec. 3003. Meetings of board; freedom of information.

(a) The business that the board of appeals may perform shall be conducted at a public meeting of the board of appeals held in compliance with Act 267, Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date and place of the meetings shall be given in the manner required by the Open Meetings Act, Act 267, Public Acts of 1976.

(b) All records of the board zoning appeals and city planning commission shall be subject to the provisions of Act 442, Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(Ord. No. 2009-07, pt. 5, 3-9-2009)

ARTICLE 31. SCHEDULE OF FEES

[Sec. 3100. Fees to be paid in full; applicant responsible for engineering costs; inactivity on part of applicant.]

(a) Until all applicable fees have been paid in full, no action shall be taken on any application or appeal. The schedule of fees shall be set by resolution by the Rochester city council.

(b) In addition to the above fees, the applicant shall be responsible for all necessary engineering costs incurred by the city in processing applications for rezoning and/or site plan approval, and the city shall not be required to advance any of such costs but such costs shall be paid out of deposits of the applicant as provided herein. A deposit of 1½ percent of the total costs of estimated engineering improvements and services (as determined by the city engineer) shall be deposited by the applicant with the city before any such engineering costs are incurred. Thereafter, all engineering costs shall be deducted from said deposits as incurred from time to time. In the event said deposit shall be insufficient to cover all such engineering costs,

the applicant shall be required to deposit such additional sums as are determined by the city engineer to be necessary to completely recover the remainder of said engineering costs prior to the continuation of such engineering services. An applicant's failure to so deposit such additional sums shall result in a cessation of further engineering services by the city engineer and may constitute an abandonment, as provided below, all remaining deposits on hand shall be refunded to applicant.

(c) Inactivity on the part of an applicant for a period of 90 days or longer in the processing of a rezoning request and/or a site plan approval request, shall be deemed an abandonment of the application requiring the submission of a new application and repayment of the above fees, unless prior approval of the applicable board or commission is obtained for a longer period of delay due to extenuating circumstances.

ARTICLE 32. ZONING OF VACATED RIGHTS-OF-WAY

[Sec. 3200. Intent.]

(a) Whenever any street, alley, or other public right-of-way shall be vacated, such areas shall be zoned in the same zoning district as the property to which it attaches, unless such vacated area is otherwise zoned by the city council.

ARTICLE 33. ZONING OF ANNEXED AREAS

[Sec. 3300. Intent.]

(a) Any area annexed to the City of Rochester shall be zoned R-4, One-Family Residential District until such annexed area is otherwise zoned by the city council.

ARTICLE 34. AMENDMENTS

Sec. 3400. Intent.

(a) For the purposes of establishing and maintaining sound, stable, and desirable development within the territorial limits of the city, this ordinance shall not be amended except to correct an error in the ordinance or, because of changed or changing conditions in a particular area or in the municipality generally, to rezone an area, extend the boundary of an existing zoning district, or to change the regulations and restrictions thereof. An owner of land may voluntarily offer in writing and the city may approve, certain use and development of land as a condition to the approval of a rezoning consistent with the provisions of section 405 of the Michigan Zoning Enabling Act, Act 110, Public Acts of 2006, as amended (MCL 125.3101 et seq.).

(Ord. No. 2009-07, pt. 6, 3-9-2009)

Sec. 3401. Referral of amendment petition to planning commission.

(a) Upon receipt of the petition to amend this ordinance, which petition having been examined and approved as to form and completeness by the city clerk, the city council shall refer the same to the planning commission for study and report; and shall not enact the proposed amendment upon second reading until 30 days after such referral to the planning commission or until the planning commission makes its report to the city council, whichever first occurs.

Sec. 3402. Action of the planning commission.

(a) The planning commission shall review the petition and shall recommend to the city council such action as the commission deems proper.

Sec. 3403. Public hearing and notice thereof.

The city council shall not amend this ordinance or the zoning map until the proposed amendment has been submitted to the planning commission and the commission has held at least one public hearing and made a report thereon. The city council may adopt the proposed amendment, after receipt of the commission report, or refer the amendment again to the commission for a further report. Before adopting the proposed amendment, which has had a prior report from the commission, the city council shall hold one public hearing on the proposed amendment. Not less than 15 days notice of the public hearings shall first be published in an official paper or a paper of general circulation in the city and given by mail to each public utility company and to each railroad within the district or zones affected that registers its name and mailing address with the city clerk for the purpose of receiving the notice. In the case of a request for the rezoning of an individual property or of ten or fewer adjacent properties, not less than 15 days notice shall also be given by mail or personal delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within 300 feet of the subject property, and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or occupant is located within the City of Rochester. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, business or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas or organization, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. An affidavit of mailing shall be maintained. A hearing shall be granted a person interested at the time and place specified on the notice. The notice shall:

(1) Describe the nature of the request.

(2) Indicate the property, which is the subject of the request. For a request for the rezoning of an individual property or of ten or fewer adjacent properties, the notice shall include a listing of all existing street addresses within the property.

(3) State when and where the request will be considered.

(4) Indicate when and where written comments will be received concerning the request.

(Ord. No. 2009-07, pt. 7, 3-9-2009)

Sec. 3404. Effective protest to proposed amendment.

Upon presentation of a protest petition meeting the requirements of this subsection, an amendment to a zoning ordinance which is [the] object of the petition shall be passed only by a two-thirds vote of the city council. The protest petition shall be presented to the city council before final legislative action on the amendment, and shall be signed by one of the following:

(1) The owners of at least 20 percent of the area of land included in the proposed change.

(2) The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.

For purposes of this section, publicly owned land shall be excluded in calculating the 20 percent land area requirement.

Sec. 3405. Procedure for and content of amendment petitions.

(a) *Filing of petitions.* All petitions for amendments to this ordinance shall be in writing, signed and filed with the city clerk for presentation to the city council.

(b) *Contents of petition.* All petitions for amendments to this ordinance shall contain at least the following (without limiting the rights to file additional material):

(1) The petitioner's name, address, phone number, and interest in the petition, as well as the name phone number, and interest of every person having legal or an equitable interest in the land covered by the petition.

(2) The nature and effect of the proposed amendment.

(3) If the proposed amendment would require a change in the zoning map, a fully dimensioned map showing:

a. The land, which would be affected by the proposed amendment;

b. A legal description of such land;

c. The present zoning classification of the land;

d. Zoning classification of all abutting zoning districts; and

e. All public and private rights-of-way and easements bounding and intersecting the land under consideration.

(4) The alleged error in this ordinance, if any, which would be corrected by the proposed amendment, together with an explanation of such error which is alleged and reasons as to how the proposed amendment would correct the same.

(5) The changed or changing conditions, if any, in the area or in the municipality generally that make the proposed amendment necessary.

(6) All other circumstances, factors, and reasons, which the petitioner offers in support of the proposed amendment.

(7) A site plan, prepared in accordance with article 27; however, the planning commission may waive the requirement of a site plan or reduce its scope and contents if the planning commission decides that the nature of the proposed amendment and character of the subject land and surroundings do not necessitate such information.

(8) The amendment petition shall be accompanied by a filing fee to defray costs of processing the petition. The filing fee shall be as set forth in article [31].

(9) Conditional rezoning requests shall include the applicant's proposed offer of conditions. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process, but prior to the planning commission's public hearing. The applicant may voluntarily amend the conditions during the process of rezoning consideration. An owner may withdraw all or part of its offer of conditions at anytime prior to final rezoning action of the city council provided that, if such withdrawal occurs subsequent to the planning commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the planning commission for a new public hearing with appropriate notice and a new recommendation. The applicant may offer to add more restrictive conditions at the city council without requiring a new public hearing.

(Ord. No. 2009-07, pt. 8, 3-9-2009)

Sec. 3406. Criteria for amendment of the official zoning map.

In considering any petition for an amendment to the official zoning map, the planning commission and city council shall consider the following criteria in making their findings, recommendations and decision. The decision

on a proposed amendment shall include a statement of findings and conclusions which specifies the basis for the decision.

(1) Consistency with the goals, policies and future land use arrangement of the City of Rochester's master plan.

(2) Compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

(3) The compatibility of uses allowed in the proposed zoning district with surrounding uses and zoning.

(4) The capacity of city utilities and services to accommodate the uses permitted in the requested district.

(5) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.

(6) The boundaries of the requested rezoning district are reasonable and construction on the site will be able to meet the dimensional regulations for the zoning district listed in the schedule of regulations.

(7) The requested rezoning will not create an isolated and unplanned spot zone.

(8) An offer of conditions submitted as part of a conditional rezoning request shall bear a reasonable and rational relationship to the property for which rezoning is requested.

(9) Other factors deemed appropriate by the planning commission and city council.

(Ord. No. 2009-07, pt. 9, 3-9-2009)

Sec. 3407. Criteria for amendments to zoning ordinance text.

The planning commission and city council shall consider the following criteria for initiating amendments to this zoning ordinance text or responding to a petitioner's request to amend the ordinance text. The decision on a proposed amendment shall include a statement of findings and conclusions which specifies the basis for the decision.

(1) The proposed amendment would correct an error in this ordinance.

(2) The proposed amendment would clarify the intent of this ordinance.

(3) Documentation has been provided from city staff or the zoning board of appeals indicating problems and conflicts in implementation or interpretation of specific sections of this ordinance.

(4) The proposed amendment would address changes to the state legislation.

(5) The proposed amendment would address potential legal issues or administrative problems with the zoning ordinance based on recent case law or opinions rendered by the attorney general of the State of Michigan.

(6) The proposed amendment would promote compliance with changes in other city ordinances and county, state, or federal regulations.

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

(8) Other criteria as determined by the planning commission or city council which would protect the health and safety of the public, protect public and private investment in the city, promote implementation of the goals and policies of the master plan, downtown development plans, and sub-area plans, and enhance the overall quality of life in the City of Rochester.

(Ord. No. 2009-07, pt. 10, 3-9-2009)

Sec. 3408. Approval and adoption of amendment.

(a) Following amendment of this ordinance by the city council, one notice of adoption shall be published in a newspaper of general circulation in the city within 15 days after adoption. The notice shall include the following information:

(1) Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.

(2) The effective date of the ordinance.

(3) The place and time where a copy of the ordinance may be purchased or inspected.

(b) The filing and publication requirement in this section supersede Charter provisions relating to the filing and publication of city ordinances.

(c) The following administrative actions shall be taken upon approval of the amendment:

(1) The zoning text and or map shall be amended to reflect the new zoning classification or language. Map amendments for conditional rezonings should include a designation identifying that the property is subject to a statement of conditions.

(2) Conditional rezonings shall require the submittal of a formal written statement of conditions, which shall be incorporated by attachment as an inseparable part of the ordinance adopted by the city council. The statement of conditions shall:

a. Be in a form recordable with the Oakland County register of deeds and include a statement acknowledging that it is recorded.

b. Contain a legal description of the land to which it pertains.

c. Acknowledge that upon the rezoning taking effect, the use and development of the land shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by the statement of conditions.

d. Contain a provision acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land. Any person who establishes a development or commences a use upon such land shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the statement of conditions.

e. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

f. Specify that failure to comply with any of the conditions set forth in the statement of conditions shall constitute a violation of this zoning ordinance and shall be punishable accordingly.

g. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the document.

(d) The approved statement of conditions shall be filed by the city clerk with the Oakland County register of deeds. The city council shall have the ability to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the city or to any subsequent owner of the land.

(Ord. No. 2009-07, pt. 11, 3-9-2009)

Sec. 3409. Effect of conditional rezoning.

The following provisions shall apply to approved conditional rezonings:

(1) *Time period for establishing development or use.* Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the city council if:

a. It is demonstrated to the city council's reasonable satisfaction that there is a strong likelihood that the development and or use will commence within the period of extension and proceed diligently thereafter to completion; and

b. The city council finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

(2) *Reversion of zoning.* If approved development and/or use of the rezoned land does not occur within the time frame specified under subsection (1) of this section, then the land shall revert to its former zoning classification as set forth in section 405(2) of the Michigan Zoning Enabling Act, Act 110, Public Acts of 2006, as amended. The reversion process shall be initiated by the city council requesting that the planning commission proceed with consideration of the rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other zoning requests.

(3) *Subsequent rezoning of land.* When land that is rezoned with a statement of conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to subsection (2) of this section or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the city clerk shall record with the Oakland County register of deeds a notice that the statement of conditions is no longer in effect.

(4) *Amendment of conditions.* During the time period for commencement of an approved development or use specified pursuant to subsection (1) of this section or during any extension thereof granted by the city council, the city shall not add to or alter the conditions in the statement of conditions. The statement of conditions may be amended thereafter in the same manner as set forth in section 3405(b)(9).

(5) *City right to rezone.* Nothing in the statement of conditions nor in the provisions of this section shall be deemed to prohibit the city from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and the Michigan Zoning Enabling Act, Act 110, Public Acts of 2006, as amended (MCL 125.3101 et seq.).

(Ord. No. 2009-07, pt. 12, 3-9-2009)

ARTICLE 35. PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS

[Sec. 3500. Intent.]

(a) In their interpretation and application, the provisions of this ordinance shall be held to minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever

the requirements of any other lawfully adopted rules, regulations, or ordinances, the more restrictive or that imposing the higher standards shall govern.

ARTICLE 36. COMPLIANCE REGARDING VIOLATIONS

[Sec. 3600. Complaints.]

(a) Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the administrative official. He shall record properly such complaint, investigate with all due dispatch, take action thereon as provided by this ordinance, and make answer to the complainant within five days.

ARTICLE 37. PENALTIES FOR VIOLATION

[Sec. 3700. Violation constitutes misdemeanor.]

(a) Violation of the provisions of this ordinance, failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variance or ~~special exception~~conditional uses) or failing to comply with or build in conformance to an approved site plan shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500.00 or imprisoned for not more than 90 days or both and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

(b) The owners or tenant of any building, structure, premises, or part thereof, and architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and suffer the penalties herein provided.

(c) In addition to the above, should anyone fail to comply with any approval by any city board, commission or a building official including, but not limited to, failing to adhere to an approved site plan, landscaping plan, article 23 performance standards or any other plan or approval, the city may take any and all actions it deems necessary to remedy the noncompliance or deficiency. Such actions may include, but are not limited to, issuing citations, issuing stop work orders, seeking injunctive relief and requiring said person or entity to appear before the approving body or person to show cause why approval should not be revoked. Should the deviation, noncompliance or deficiency be deemed material by the approving body or person, such approving body or person may require compliance, add conditions and/or amend or revoke approval.

(d) Nothing herein contained shall prevent the municipality from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 2011-02, 2-14-2011)

ARTICLE 38. SEVERABILITY CLAUSE

[Sec. 3800. Validity of ordinance not affected by unconstitutional or invalid provision.]

(a) Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof other than the part so declared to [be] unconstitutional or invalid.

ARTICLE 39. DEFINITIONS

Sec. 3900. Intent.

For the purposes of this ordinance, certain terms or words used herein shall be interpreted as follows. Words and terms not herein defined shall have the meaning customarily assigned to them.

[Person.] The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

[Tense.] The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular.

[Shall, may.] The word "shall" is mandatory; the word "may" is permissive.

[Used, occupied.] The words "used" or "occupied" include the words "intended," "designed," or "arranged to be used or to be occupied."

[Lot.] The word "lot" includes the word "plot" or "parcel."

Sec. 3901. Definitions A—C.

Accessory use of structure means a use of structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

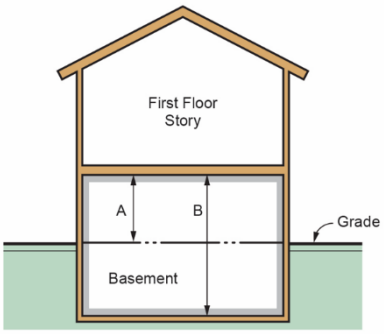
Adult bookstore means an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a separate segment or section devoted to the sale or display of that material.

Adult cabaret means a restaurant or tavern serving alcoholic beverages and featuring topless or bottomless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

Adult foster care facility. See definition of *State licensed residential facility.*

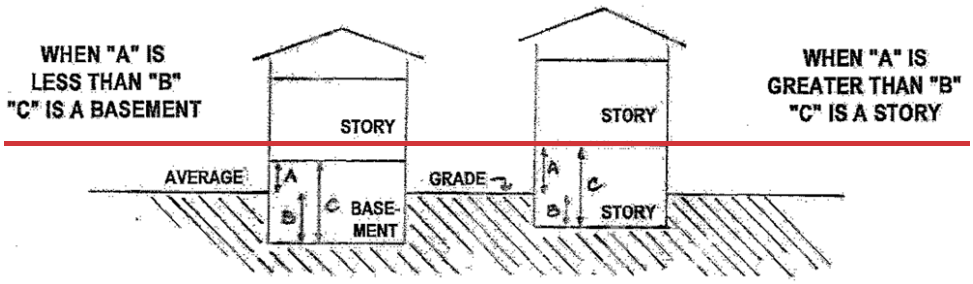
Adult motion picture theater means an enclosed building displaying film or materials, a significant portion of which includes matter depicting, describing or relating to specified sexual activities or specified anatomical areas, for observation by patrons of the building, or featuring topless or bottomless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

Basement means that portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.



Basement

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



Bed and breakfast home means a single-family residential structure that has six or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper, which are available for rent to overnight guests and serves meals at no extra cost to overnight guests.

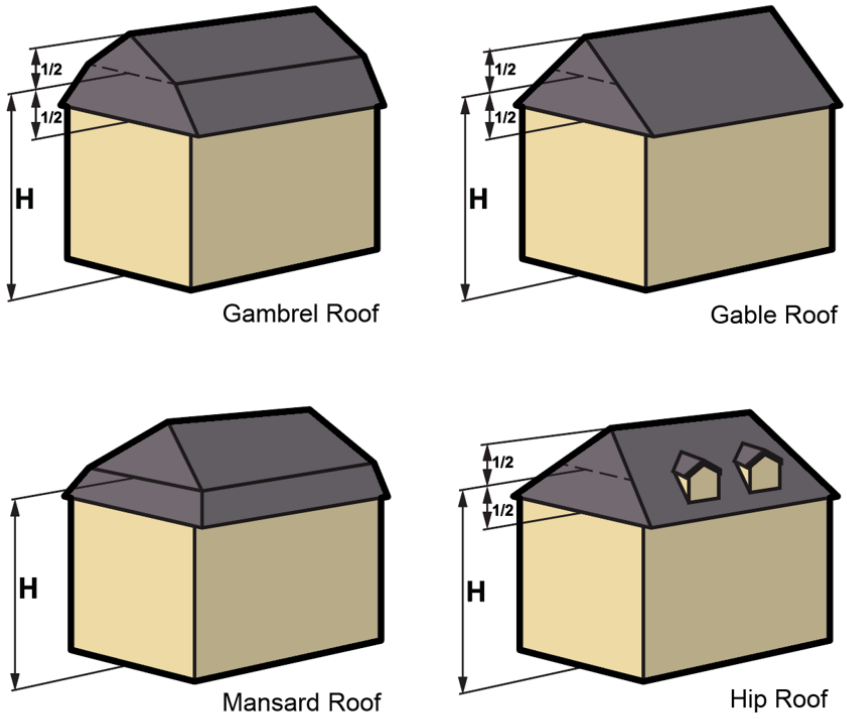
Bistro means a restaurant with a full-service kitchen, limited interior seating, limited bar area and seating, and additional seating for outdoor dining.

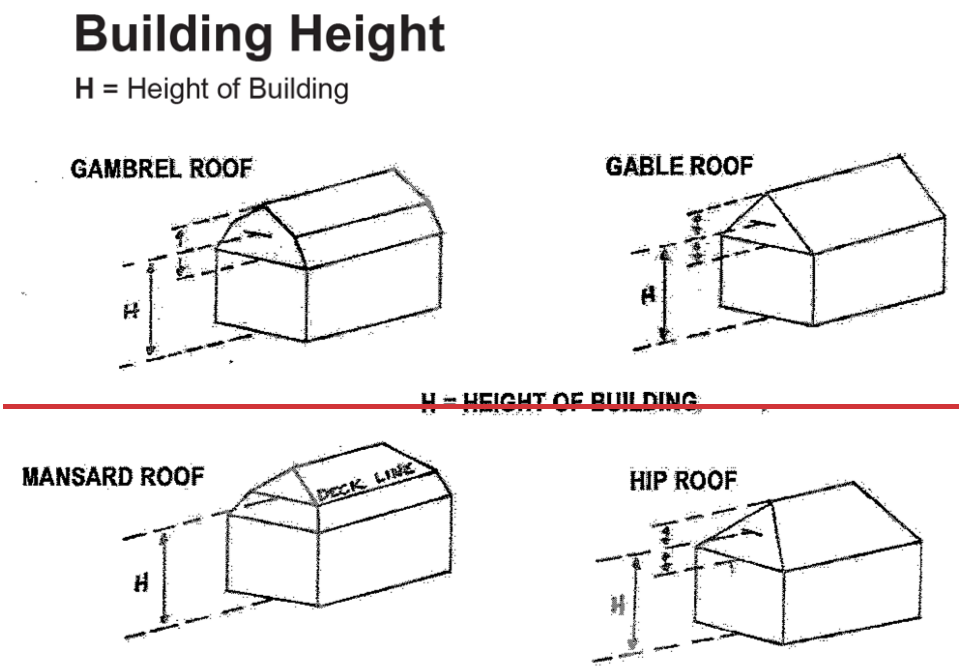
Breezeway means a structure or addition to a structure, without heat or air conditioning equipment that is more than six feet wide with a permanent roof and sidewalls or screens that may or may not connect the principal residence with one or more accessory buildings.

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

Building means any structure, either temporary or permanent, having a roof, including among other things tents, canopies, and carports.

Building height means the vertical distance measured from the established grade to the highest point of the roof's surface for flat roofs; to the deckline of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain, height may be measured from the average ground level of the grade at the building wall.





Clinic, psychological, means any use that includes two or more psychiatrists, psychologists, and similar professional, paraprofessional, medical and non-medical psychological counselors.

(Ord. No. 2004-12, 9-13-2004; Ord. No. 2009-07, pt. 13, 3-9-2009; Ord. No. 2009-21, pt. 1, 11-9-2009; Ord. No. 2010-10, § 3901, 4-26-2010; Ord. No. 2012-11, 8-13-2012)

Sec. 3902. Definitions D—E.

Deck means an exterior floor system supported on at least two opposing sides by an adjoining structure and/or posts, piers, or other independent supports.

Drive-in restaurant or refreshment stand means any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may also serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Dwelling, mobile home, means a detached residential dwelling unit designed for transportation, after fabrication, on streets or highways on its own wheels or on flatbed or other trailers and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operation, location on jacks or other temporary or permanent foundations, connection to utilities, and the like. A mobile home shall be one story in height, with a minimum body width of ten feet, a minimum floor area of 576 square feet, a maximum floor area of 1,000 square feet, built on a chassis, and designed to be used as a dwelling for long-term, continuous occupancy. A travel trailer is not a mobile home. Floor area and body width shall be measured to the exterior face of the exterior walls.

Dwelling, multiple-family, means a residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, single-family, or *dwelling, one-family,* means a detached residential dwelling unit other than a mobile home, designed for and occupied by one family only.

Dwelling, two-family, means a detached residential building containing two dwelling units, designed for occupancy by not more than two families.

Dwelling unit means one room or rooms connected together, constituting a separate, independent housekeeping establishment for one-family occupancy, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathroom, and sleeping facilities.

Entrance ramp means a roadway connecting a feeder road with a limited access highway and used for access to such limited access highway.

Essential services means the erection, construction, alteration, or maintenance by public utilities, municipal departments, or public commissions of underground, surface, or overhead gas, electric, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including streets, mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street lighting, poles and other similar equipment, and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities, municipal departments, or public commissions, or for the public health, safety, or general welfare, but excluding the construction or erection of:

(1) Buildings.

(2) Any of the following structures, unless the particular structure(s) and its location, height, and character have been approved by the city in conjunction with its approval of a subdivision plat:

   a. Any tower or pole over 35 feet in height;

   b. Any tank or other structure over four feet in height.

However, the repair, maintenance, or emergency replacement of any of the foregoing shall be considered an essential service.

(Ord. No. 2004-13, 9-13-2004)

Sec. 3903. Definitions F—H.

Family means one or more individuals, living together as a single housekeeping unit in one dwelling unit, all related by blood, marriage, or operation of law, and not more than three other individuals. Thus, if all of the individuals are unrelated, the maximum number shall be four.

Family child care home means 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 child care home" includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year. The home must be the bona fide private residence of the operator of the family care home. Family child care homes are a principal permitted use in One-Family Residential Districts.

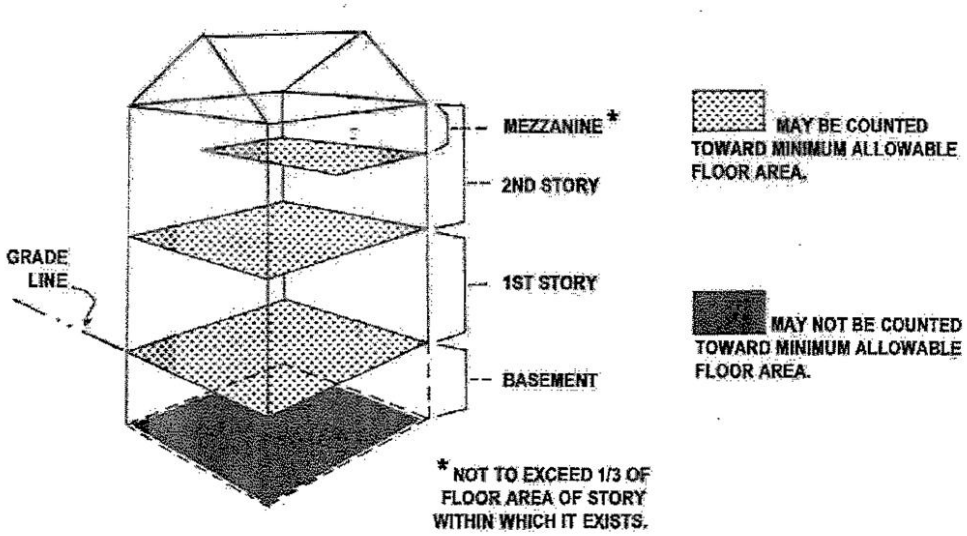
Farm [or]*farming* means, for purposes of this ordinance, a farm or farming means generally recognized farming, including livestock and poultry raising, dairying, horticulture, forestry; and similar agricultural uses of land and structures, except a farm operated wholly or in part for the disposal of garbage, sewage, rubbish, offal, and wastes from rendering plants.

Fence means any partition, structure or gate erected as a dividing marker, barrier or enclosure.

Floor area.

(1) For the purpose of computing the minimum allowable floor area in a residential, one-family dwelling unit, the sum of the horizontal areas of each story of a building shall be measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, or space used for off-street parking, breezeways, enclosed and unenclosed porches, and accessory structures.

(2) In the case of two family or multifamily dwellings, the minimum allowable floor area of a dwelling unit is the horizontal floor area of the dwelling unit measured to the interior face of the dwelling unit's perimeter walls, excluding hallways and common areas.



Floor area, gross (for purposes of computing parking requirements). [The term] "gross floor area" shall be the sum of the horizontal areas of the several floors of the building, including the basement, measured from the exterior faces of the exterior walls.

Garage, private. An accessory building or an accessory portion of the main building, designed and/or used primarily for the shelter and storage of vehicles owned or operated by the occupants of the main building.

Side-loaded garage means a garage where the garage door(s) face a side lot line.

Rear-loaded garage means a garage where the garage door(s) face the rear lot line.

Front-loaded garage means a garage where the garage door(s) face the front lot line.

Gasoline service station means a place for the dispensing and retail sale of motor fuels directly to users of motor vehicles, together with the sale of oil, grease, batteries, tires and vehicle accessories, and incidental repairs and services. Permissible uses do not include major mechanical and body work, straightening body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations. A gasoline station is not a repair garage nor a body shop.

Group child care home means 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. [The term] "group child care home" includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year. The home must be the bona fide private residence of the operator of the group child care home. Group day care homes are permitted as a ~~special exception~~conditional use in the O-1, O-2, B-1 and CBD Districts.

Group housing means housing occupied by a group of individuals not constituting a family, such as fraternity, sorority, orphanage, religious order, and similar groups.

Home occupation means an occupation conducted in a dwelling unit, provided that:

(1) No person other than members of the family residing on the premises shall be engaged in such operation;

(2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation; for purposes of this paragraph, the basement floor area shall be included in the dwelling unit's floor area to the extent of its usage by the home occupation;

(3) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one square foot in area, non-illuminated, and mounted flat against the wall of the principal building;

(4) No home occupation shall be conducted in any accessory building;

(5) There shall be no sales of goods on the premises in connection with such home occupation;

(6) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;

(7) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. 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 line voltage off the premises.

(Ord. No. 2009-07, pt. 14, 3-9-2009; Ord. No. 2009-27, § 3903, 12-21-2009; Ord. No. 2017-06, pt. I, 6-12-2017)

Sec. 3904. Definitions I—L.

Loading space, off-street, means space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filed. Required off-street space is not to be included as off-street parking space in computation of required off-street parking space.

Lot, for the purposes of this ordinance, means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Not more than 25 percent of the required lot area shall be under water. Such lot shall have frontage on a recorded or public street, and may consist of:

(1) A single lot of record;

(2) A portion of a lot of record;

(3) Combination of complete lot of record, of complete lots of record and portions of lots of record, or of portions of lots of record;

(4) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

Lot frontage means the front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under [the definition for] yards in section [3907].

Lot measurements.

(1) Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

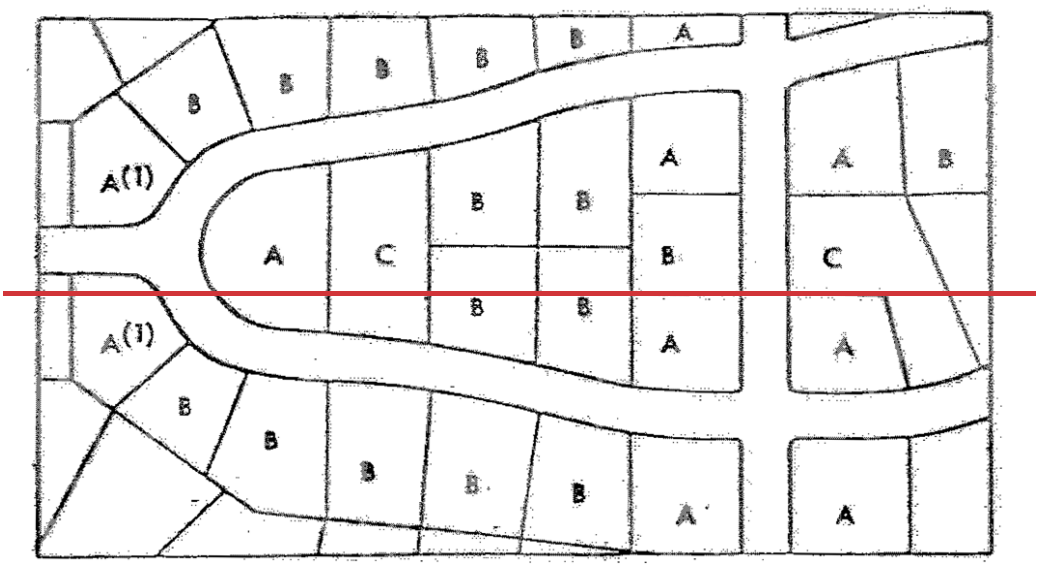
(2) Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot; provided, however, that in determining lot frontage on odd shaped lots, if the lot abuts on the outside curve boundary of a curving street and as a result the side lot lines diverge toward the rear, the measurement of width may be taken at the front building line of the principal building; and provided further that, if the lot abuts on an inside curve boundary of a curved street wherein the lot lines converge toward the rear, the measured width shall be taken at the rear line of the principal building or 30 feet behind the front setback line, parallel to the street or street chord.

Lot of record means a lot which is part of a subdivision recorded in the office of the county register of deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.



Corner, Interior, and Through Lots

Lot types. The diagram below illustrates terminology used in this ordinance with reference to corner lots, interior lots, and through lots.



In the diagram, "A" equals corner lot, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet on an interior angle of less than 135 degrees. See lots marked A(1) in the diagram.

In the diagram, "B" equals interior lot, defined as a lot other than a corner lot with only one frontage on a street.

In the diagram, "C" equals through lot, defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Sec. 3905. Definitions M—R.

Mezzanine means an intermediate floor in any story occupying no more than one-third of the floor area of such story.

Open space means a tract or tracts of land set aside for the preservation and enjoyment of significant natural resources and/or natural features that is subject to public or private development restrictions or limitations.

Outdoor advertising business means provision of outdoor display space on a lease or rental basis only.

Overnight lodging facilities means commercial establishments including hotels, motels, inns and the like which provide lodging, meals, and other guest services.

Park means a tract of land, including any non-navigable water courses and water features located thereon, designated and used for active and/or passive recreation.

Parking space, off-street.

(1) For the purposes of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any street, walk, or alley,

and so that any automobile may be parked and unparked without moving another. Each parking space shall comprise a net area of at least ten feet by 20 feet.

(2) For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the municipality.

Permanent roof means a non-seasonal roofing or cover system intended to remain in place and to provide year-round protection from sun, rain, snow and the like. This definition is not intended to include canvas or vinyl awnings or retractable covers of any kind.

Public utility means any person, firm, corporation, municipal department or board duly authorized to furnish, and furnishing under state or municipal regulations to the public: electricity, gas, steam, communications, telegraph, transportation, or water.

Raised patio means an exterior raised system, other than a deck, generally constructed with a retaining wall of brick, masonry, wood timbers, or the like and backfilled with soil, sand, or similar earth material and topped with a durable walking surface.

Restaurant means a building in which food is prepared and sold for consumption within the building, as opposed to a drive-in restaurant establishment where food may be taken outside of the building for consumption either on or off the premises.

(Ord. No. 2004-14, 9-13-2004; Ord. No. 2009-22, pt. 1, 11-9-2009; Ord. No. 2010-02, 1-11-2010)

Sec. 3906. Definitions S—T.

Satellite dish antenna means an accessory structure capable of receiving, for the sole benefit of the principal use, radio or television signals from a transmitter or transmitter relay located in planetary orbit.

Sign means any device designed to inform or attract the attention of persons not on the premises on which the sign is located.

Sign, off-site, means a sign other than an on-site sign.

Sign, on-site, means a sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

Significant portion, in the definition of *Adult motion picture theater,* shall mean or include either or both of the following:

(1) Any one or more portions of the display having a duration in excess of five minutes; and/or

(2) The aggregate of portions of the display having a duration equal to ten percent or more of the single display as a whole.

~~*Special exception*~~*Conditional use* means a use that would not be appropriate generally or without special restriction throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, and if subject to special restrictions, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as ~~special exception~~conditional uses, as provided for in this ordinance.

Specified anatomical areas means either human male genitals in a discernable turgid state, even if completely and opaquely covered, or the following if less than completely and opaquely covered:

(1) Human genitals or pubic regions.

(2) Human buttocks.

(3) Human female breasts below a point immediately above the top of the areola.

Specified sexual activities means the following:

(1) Human genitals in a state of sexual stimulation or arousal.

(2) Acts of human masturbation, sexual intercourse or sodomy.

(3) Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.

State licensed residential facility means a structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility Licensing Act, [Act 218, Public Acts of 1979,] MCL 400.701—400.737, or 1973 PA 116, MCL 722.111—722.128, and provides residential services for six or fewer persons under 24-hour supervision or care. Such facilities may include an adult foster care facility, foster family home, or foster family group homes and shall be considered a residential use of property for the purposes of zoning and a principal permitted use in all residential zones. This term shall not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

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

Story, half, means an uppermost story lying under a sloping roof, the gross floor area of which does not exceed 50 percent of the floor area of the story immediately below it.

Street means a thoroughfare for vehicular traffic, generally includes everything found within the right-of-way.

Street line means the right-of-way line of a street or easement for ingress and egress.

Structure means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, billboards, and signs.

Subdivision, mobile, means a legally platted residential subdivision approved by the planning commission and where residence is intended to be in mobile home or trailer coaches.

Trailer coach or *travel trailer* means a vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet and a body length not exceeding 30 feet.

Treatment station means any individual work station where an employee provides services to a customer. In the context of a beauty parlor, a treatment station shall include but not be limited to, hair cutting chairs; shampoo sinks/chairs; manicure, makeup or facial chairs; and the like.

(Ord. No. 2009-07, pt. 15, 3-9-2009)

Sec. 3907. Definitions U—Z.

Use, accessory, a subordinate use which is customarily incidental to the principal use on the same lot.

Use, principal, means the primary and chief purpose for which a lot is used.

Variance means a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces;

establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance by granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

Walkway, covered, means a structure six feet or less in width, with a permanent roof that connects a principal residence to one or more accessory structures.

Walkway, enclosed, means a structure six feet or less in width, with a permanent roof and sidewalks or screens that connects a principal residence to one or more accessory structures.

Yard means a required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture, but not including decks, may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

Decks may be permitted to occupy not more than 25 percent of a required rear yard, subject to the following:

(1) The maximum projection into the required rear yard shall be 16 feet.

(2) No part of a deck shall be located on the ground within any landscaped stabilization zone; however, a deck may be cantilevered not more than eight feet over any landscaped stabilization zone where it will not interfere with the normal growth of the vegetation used to stabilize the banks.

Yard, front, means a yard extending the full width of a lot across the front of a lot adjoining a public street or a private street approved by the board of appeals or the city planning commission in conjunction with approval of a site plan.

(1) The depth of a front yard shall be measured at right angles to a straight line joining the foremost point of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. The front and rear lines of front yards shall be parallel.

(2) In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the administrative official may waive the requirement for the normal front yard and substitute therefor a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

(3) For corner lots in a residential district, the front yard shall be the yard abutting the street which is designated as the front street in the plat and in the application for a building permit or zoning occupancy permit. If there is no such designation, the narrower lot frontage shall be considered the front in determining building siting and required setbacks. The other side abutting a street shall be considered a side yard, and shall meet the minimum setback for side yards in the district in which it is located, and is required to meet the larger of the side yard minimum requirements. On corner lots where the rear lot line of a parcel (parcel X) abuts the side lot line of a parcel (parcel Y) with frontage onto the other street, detached accessory buildings shall be placed in the rear yard of the parcel X, beyond the established front yard line for the parcel Y (as shown in fig. 4).

Yard, rear, means a yard extending across the full width of the lot, the depth of which is the required horizontal distance between the rear lot line and the nearest point of the principal building.

Yard, side, means a yard extending from the required front yard to the required rear yard. In the case of through lots, side yards shall extend from the rear lines of front yards required. Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with its inner edge parallel with the side lot line.

(Ord. No. 2004-15, 9-13-2004; Ord. No. 2014-04, 3-24-2014)

ARTICLE 40. SHORT TITLE

[Sec. 4000. Reference to ordinance.]

(a) This ordinance may be cited and referred to as the "City of Rochester Zoning Ordinance."

ARTICLE 41. AMENDMENT OF ORDINANCE [NO.] 1963-8; EFFECTIVE DATE

[Sec. 4100. Ordinance amended.]

(a) The City of Rochester Zoning Ordinance, Ordinance No. 1963-8, as amended, except the zoning map and boundaries of zoning districts, is hereby amended in its entirety. The adoption of this amending ordinance, however, shall not affect or prevent any pending or future prosecution of, or action to abate, any existing violation of Ordinance No. 1963-8, as amended, if said existing violation is in violation of the provisions of this ordinance. This ordinance shall become effective immediately upon the publication thereof.

Zoning Ordinance

CITY OF ROCHESTER, MICHIGAN

ADOPTED ·

Prepared by:

235 East Main Street, Suite 105
Northville, MI 48167
mcka.com

SUMMARY TABLE OF AMENDMENTS

Ordinance Number	Effective Date	Amended Sections	Description

Table of Contents

Title *Page*
Summary of Amendments

Article 1. Establishment of Districts; Official Zoning Map

Sec. 100. Official Zoning Map

Sec. 101. Replacement of Official Zoning Map

Article 2. Rules for Interpretation of District Boundaries

Sec. 200. Intent and Interpretation Rules

Article 3. Application of District Regulations

Sec. 300. Applicability of Regulations

Article 4. Nonconformities

Sec. 400. Intent

Sec. 401. Nonconforming Lots of Record

Sec. 402. Nonconforming Uses of Land

Sec. 403. Nonconforming Structures

Sec. 404. Nonconforming Uses of Structures and Premises

Sec. 405. Repairs and Maintenance

Sec. 406. Reserved

Sec. 407. Certificates of Occupancy

PART 2. ZONING DISTRICTS

Article 5. Zoning Districts

Sec. 700. District Classification System

Residential Districts

Article 6. R-1 through R-5 One-Family Residential Districts

Sec. 600. Intent

Sec. 601. Permitted Principal Uses

Sec. 602. Permitted Accessory Uses

Sec. 603. Conditional Uses

Article 7. RT Two-Family Residential District

Sec. 700. Intent

Sec. 701. Permitted Principal Uses

Sec. 702. Permitted Accessory Uses

Sec. 703. Conditional Uses

Article 8. RM-1 Multiple-Family / Mixed Residential District

- Sec. 800. Intent

- Permitted Principal Uses
- Permitted Accessory Uses
- Conditional Uses
- Development Standards

Article 9. RM-2 Multiple-Family Residential District

- Intent
- Permitted Principal Uses
- Permitted Accessory Uses
- Conditional Uses
- Development Standards

Article 10. MHP Mobile Home Park Residential District (Reserved)

Article 11. CBD Central Business District

- Intent
- Permitted Principal Uses
- Permitted Accessory Uses
- Conditional Uses

Article 11A. DE-1 Downtown Edge-1 District

- Intent
- Permitted Principal Uses
- Permitted Accessory Uses
- Conditional Uses
- Development Standards

Article 11B. DE-2 Downtown Edge-2 District

- Intent
- Permitted Principal Uses
- Permitted Accessory Uses
- Conditional Uses
- Development Standards

Article 11C. T Transition District

- Intent
- Permitted Principal Uses
- Permitted Accessory Uses
- Conditional Uses
- Development Standards

Article 11D. MU Mixed-Use District

- Intent
- Permitted Principal Uses
- Permitted Accessory Uses
- Conditional Uses
- Development Standards

Article 11E. MU-1 Mixed-Use-1 District

- Intent
- Permitted Principal Uses
- Permitted Accessory Uses
- Conditional Uses
- Development Standards

Article 12. P-1 Vehicular Parking District

Article 13. B-1 General Business District

Article 14. O-1 Limited Office District

Article 15. O-2 Restricted Office District

Article 16. Research and Technology Districts

RP Research Park District

Article 17. Industrial Districts

LI Light Industrial District

I-1 Industrial 1 District

Article 18. I-2 Industrial 2 District

Article 19. Special Purpose Districts

River Valley (RV) District

Parks and Open Space (POS) District

PART 3. DEVELOPMENT STANDARDS

Article 20. Dimensional Standards

- Schedule of District Regulations
- Setbacks
- Lot Area and Width
- Building Height
- Placement Standards

Article 21. Supplementary District Regulations

- Visibility and Corner Clearance
- Accessory Buildings

- Swimming Pools
- Building Height Exceptions
- Communication Towers and Antennas
- Public Utilities and Facilities
- Dwelling Standards
- Upper Story Apartments
- Day Care Facilities
- Bed and Breakfast Homes
- Special Projects
- Residential Infill Standards
- Architectural Standards
- Outdoor Dining
- Valet Parking
- Fence Standards
- Bistro Standards
- Smoking Areas
- Medical Marihuana Prohibition
- Oil and Gas Wells
- Smoking Product Regulations
- Temporary Sales Trailers

Article 22. Sign Regulations

- Purpose and Definitions
- General Standards
- Prohibited Signs
- Residential District Signs
- Office District Signs
- Commercial District Signs
- Sign Permits and Administration

Article 23. Performance Standards

- Sound
- Vibration
- Odors
- Gases
- Glare and Heat

- Outdoor Lighting
- Smoke and Dust
- Open Storage

Article 24. Off-Street Parking and Loading

- Parking Requirements
- Parking Design Standards
- Loading Requirements

Article 25. Planned Residential Development (PRD)

- Purpose
- Eligibility
- Development Standards
- Approval Procedures

PART 4. REVIEW AND APPROVAL PROCEDURES

Article 26. Conditional Uses

- Procedures
- Approval Standards
- Conditions of Approval
- Regulated Uses

Article 27. Site Plan Review

- Applicability
- Submission Requirements
- Review Procedures
- Approval Standards

Article 28. Landscaping, Screening and Woodlands Protection

- Landscape Requirements
- Pedestrian Amenities
- Screen Walls
- Stabilization Zones

PART 5. ADMINISTRATION AND ENFORCEMENT

Article 29. Administration and Enforcement

- Zoning Compliance Permits
- Certificates of Occupancy
- Performance Guarantees

Article 30. Zoning Board of Appeals

- Organization
- Powers and Duties
- Appeals
- Variances

Article 31. Schedule of Fees

Article 32. Vacated Rights-of-Way

Article 33. Annexed Areas

Article 34. Amendments

- Rezoning Procedures
- Conditional Rezoning
- Amendment Standards

Article 35. Minimum Requirements

Article 36. Complaints and Violations

Article 37. Penalties

Article 38. Severability

PART 6. DEFINITIONS AND FINAL PROVISIONS

Article 39. Definitions

- Definitions A-C
- Definitions D-E
- Definitions F-H
- Definitions I-L
- Definitions M-R
- Definitions S-T
- Definitions U-Z

Article 40. Short Title

Article 41. Repealer and Effective Date

ARTICLE 1. ESTABLISHMENT OF DISTRICTS; PROVISION FOR OFFICIAL ZONING MAP

Sec. 100. Official zoning map.

(a) The municipality is hereby divided into zones or districts as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

(b) The official zoning map shall be identified by the signature of the mayor attested by the city clerk, and bearing the seal of the municipality, under the following words: "This is to certify that this is the official zoning map referred to in section 100 of Zoning Ordinance No. 1977-4, as amended, of the City of Rochester, Michigan," together with the date of the adoption of this ordinance.

(c) If, in accordance with the provisions of this ordinance, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the effective dates and ordinance numbers of district boundary changes, and the dates on which the official zoning map was changed.

(d) No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person shall be considered a violation of this ordinance and punishable as provided under article 37.

(e) Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the office of the city clerk shall be the final authority as the current zoning status of land and water areas, buildings and other structure in the municipality.

(Ord. No. 2003-03, 3-24-2003; Ord. No. 2003-04, 3-24-2003; Ord. No. 2003-07, 5-27-2003; Ord. No. 2006-07, 8-14-2006)

Sec. 101. Replacement of official zoning map.

(a) In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the city council, hereinafter also referred to a "legislative body," may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor attested by the city clerk, hereinafter referred to as "clerk," and bearing the seal of the municipality under the following words: "This is to certify that this official zoning map superseded and replaces the official zoning map adopted (date of adoption of map being replaced) as part of Zoning Ordinance No. [1977-4] of the City of Rochester, Michigan." Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

ARTICLE 2. RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

[Sec. 200. Intent.]

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(3) Boundaries indicated as approximately following municipal boundaries shall be construed as following such municipal boundaries;

(4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

(5) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;

(6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map;

(7) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (1) through (6) of this section, the board of appeals shall interpret the district boundaries;

(8) Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the planning commission may permit, as a conditional use, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

ARTICLE 3. APPLICATION OF DISTRICT REGULATIONS

[Sec. 300. Intent.]

The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformity to each class or kind of structure or land, and particularly, except as hereinafter provided:

(1) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

(2) No building or other structure shall hereafter be erected or altered:

a. To exceed the height or bulk;

b. To accommodate or house a greater number of families;

c. To occupy a greater percentage of lot area;

d. To have narrower or small rear yards, front yards, other open spaces, or lot area, than herein required; or in any other manner contrary to the provisions of this ordinance.

(3) No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

(4) No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

(5) Essential services shall be permitted as authorized and regulated by law and other ordinances of the municipality, it being the intention hereof to exempt such essential services for the application of this ordinance. See the definition of *Essential services* [in section 3902].

ARTICLE 4. NONCONFORMING LOTS, NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES, NONCONFORMING USES OF STRUCTURES AND PREMISES, AND NONCONFORMING CHARACTERISTICS OF USE

Sec. 400. Intent.

(a) Within the districts established by this ordinance or amendments that may later be adopted there exist:

(1) Lots;

(2) Structures;

(3) Uses of land and structures; and

(4) Character of use;

which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their continuation. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. However, it is not the intent of this ordinance to permit or encourage the continuation of nonconforming signs within the City of Rochester. Nonconforming signs are regulated by chapter 42 of the Code of the City of Rochester.

(b) Nonconforming uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. A nonconforming use of land or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district involved.

(c) To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition, or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Sec. 401. Nonconforming lots of record.

(a) In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the board of appeals.

(b) If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel be made which creates a lot width or area below the requirements stated in this ordinance.

(c) Notwithstanding the language of subparagraph (a) and (b) herein, lot splits are allowed so long as the resulting lots conform to all lot dimensions of the original plat. Use and development of such split vacant lot shall conform to the requirements of this section and the zoning district where the lot is located. Existing structures on a lot that is rendered non-conforming as a result of such split shall be deemed to be legal non-conforming structures; however no further expansion or alteration of such structure shall be allowed that would increase the degree of non-conformity of the structure(s) or lot in any aspect. No such split shall be allowed which would result in encroachments from existing structure(s) on one of the lots, into the newly created vacant lot.

(Ord. No. 2016-06, pt. 1, 6-27-2016)

Sec. 402. Nonconforming uses of land (or land with minor structures only).

Where at the time of passage of this ordinance lawful uses of land exist which would not be permitted by the regulations imposed by this ordinance, and where such use involves no individual structure with a replacement cost exceeding $1,000.00, the use may be continued so long as it remains otherwise lawful, provided:

(1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.

(2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance.

(3) If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

(4) No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming use of land.

Sec. 403. Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued (except nonconforming signs, which are regulated by [chapter] 42 of the Code of the City of Rochester) so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(2) Should such nonconforming structure or nonconforming portion of the structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.

(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Sec. 404. Nonconforming uses of structures and premises in combination.

If lawful use involving individual structures with a replacement cost of $1,000.00 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

(2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, by no such use shall be extended to occupy any land outside such building;

(3) If no structural alterations are made, any nonconforming use of a structure or structure and premises may, as a conditional use, be changed to another nonconforming use, provided that the city planning commission, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the city planning commission may require appropriate conditions and safeguards in accordance with the provisions of this ordinance. Further, if such change is permitted, the new nonconforming use remains a nonconforming use, and the substituted nonconforming use may not thereafter be resumed;

(4) Any structure or structure and land in combination, in which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;

(5) When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for six consecutive months or for 12 months during any three-year period (except when government action impedes access to the premises), the structure or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located;

(6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50 percent of the replacement cost at the time of destruction;

(7) Any existing structure devoted to a use not permitted by this ordinance in the district in which it is located may be enlarged, extended, constructed, reconstructed, moved, or structurally altered, if a portion of the use of the structure is to be changed to a use permitted in the district in which it is located; provided, however, the planning commission shall first permit it as a conditional use under the terms of this ordinance by making findings that the nonconforming use of the structure has been substantially decreased.

(Ord. No. 2021-03, 4-26-2021)

Sec. 405. Repairs and maintenance.

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

(b) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

(c) Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Sec. 406. Reserved.

Editor's note(s)—Ord. No. 2021-03, adopted April 26, 2021, deleted § 406, which pertained to uses deemed conditional uses not being considered nonconforming and derived from original zoning ordinance material.

Sec. 407. Certificate of occupancy for nonconforming structures and for nonconforming uses.

(a) In order to establish a record of lawfully existing nonconforming structures and/or nonconforming uses of structures or land, upon application by the owner, within one year of the passage of this ordinance, the administrative official shall issue a certificate of occupancy for such lawfully existing nonconformance.

(b) If such certificate of occupancy is not so obtained, the burden of proof of the lawful existence of a nonconforming structure or use shall rest upon the owner.

ARTICLE 5. DISTRICTS

[Sec. 500. Purpose.]

(a) See article 3.

(b) For the purposes of this ordinance, the City of Rochester is hereby divided into the following districts:

Designation	*District*
R-1	One-Family Residential District
R-2	One-Family Residential District
R-3	One-Family Residential District
R-4	One-Family Residential District
R-5	One-Family Residential District
RT	Two-Family Residential District
RM-1	Multiple-Family – Mixed Residential District
RM-2	Multiple-Family Residential District
CBD	Central Business District
DE-1	Downtown Edge – 1 District
DE-2	Downtown Edge – 2 District
T	Transition District
MU	Mixed-Use District

MU-1	Mixed-Use – 1 District
P-1	Vehicular Parking District
B-I	General Business District
O-1	Office Limited District
O-2	Restricted Office District
RP	Research Park District
LI	Light Industrial District
RV	River Valley District

(c) District regulations shall be set forth in this section, article 21, and all other applicable provisions of this ordinance.

(d) Conditional uses shall be subject to the provisions of article 26.

ARTICLE 6. R-1, R-2, R-3, R-4, AND R-5 ONE-FAMILY RESIDENTIAL DISTRICTS

Sec. 600. Intent.

(a) The regulations are intended to encourage a suitable environment for families typically with children. To this end, uses are basically limited to single-family dwellings, together with certain other uses, such as schools, parks, and playgrounds, which provide a neighborhood environment. In keeping with the intent, development is regulated to a moderate density. Commercial and other uses, tending to be incompatible with the intent, are prohibited.

(b) The R-1 District is only intended for areas already platted and substantially developed into lots of less than R-2 standards.

Sec. 601. Permitted principal uses.

[The following principal uses shall be allowed in the R-1, R-2, R-3, R-4 and R-5 One-Family Residential Districts:]

(1) One-family dwellings.

Sec. 602. Permitted accessory uses.

[The following accessory uses shall be allowed in the R-1, R-2, R-3, R-4 and R-5 One-Family Residential Districts:]

(1) Private garage.

(2) Garden house, tool house, swimming pool, playhouse, or greenhouse, none used for commercial purposes.

(3) A home occupation.

(4) Automobile parking for domestic use of the dwelling unit.

(5) Any use customarily incidental to the permitted principal use.

Sec. 603. Conditional uses.

[The following conditional uses shall be allowed in the R-1, R-2, R-3, R-4 and R-5 One-Family Residential Districts:]

(1) Churches and similar houses of worship, subject to approval by the planning commission according to article 26 and the following standards:

a. Shall have direct access to a thoroughfare and/or a neighborhood collector street, as designated on the city's adopted master plan.

b. If the only access to the site is from a neighborhood collector street, the applicant shall submit a traffic impact study illustrating expected volume, peak days and hours, anticipated turning movements, and a plan for mitigating any adverse impacts on local residential streets that provide alternate routes of access.

(2) Elementary, intermediate, and senior high schools, subject to approval by the planning commission according to article 26 and the following standards:

a. Shall have direct access to a thoroughfare and/or a neighborhood collector street, as designated on the city's adopted master plan.

b. If the only access to the site is from a neighborhood collector street, the applicant shall submit a traffic impact study illustrating expected volume, peak days and hours, anticipated turning movements, and a plan for mitigating any adverse impacts on local residential streets that provide alternate routes of access.

(3) Public or non-profit recreation uses, such as parks, playgrounds, golf courses, ball fields, athletic fields, swimming pools, and community centers.

(4) See section 2108 on public utilities and facilities.

(5) Cemeteries.

(6) Accessory buildings and uses customarily incidental to a use permitted above.

(7) Bed and breakfast homes, subject to section 2114.

ARTICLE 7. RT, TWO-FAMILY RESIDENTIAL DISTRICT

Sec. 700. Intent.

(a) This district is intended to regulate areas already having a significant number of two-family dwellings or areas in which there are located a significant number of large dwellings which can feasibly be converted to two-family dwellings, provided that the area, height, bulk, and placement regulations of this district are satisfied.

Sec. 701. Permitted principal uses.

[The following principal uses shall be allowed in the RT, Two-Family Residential District:]

(1) One-family dwellings, subject to the regulations of the R-2 District.

(2) Two-family dwellings.

Sec. 702. Permitted accessory uses.

[The following accessory uses shall be allowed in the RT, Two-Family Residential District:]

(1) Same as R-2 District.

Sec. 703. Conditional uses.

[The following Conditional uses shall be allowed in the RT, Two-Family Residential District:]

(1) Same as R-2 District.

ARTICLE 8. RM-1 - MULTIPLE-FAMILY RESIDENTIAL/MIXED RESIDENTIAL DISTRICT

Sec. 800. Intent.

(a) By allowing a mix of residential building types, this district is intended to contribute to the diversification of the community's housing. RM-1/Mixed Residential districts are intended to be located at sites suitable for a residential environment.

Sec. 801. Permitted principal uses.

The following principal uses shall be allowed in the RM-1 Multiple-Family Residential/Mixed Residential District:

(1) Two-family dwellings, subject to the area, height, bulk and placement regulations of the R-2 District.

(2) Multifamily dwellings.

Sec. 802. Permitted accessory uses.

The following accessory uses shall be allowed in the RM-1 Multiple-Family Residential/Mixed Residential District:

(1) Same as R-2 District.

(2) Private swimming pool designed and operated for occupants of principal buildings and their personal guests.

(3) For multifamily dwellings, off-street parking, carports, garages, recreational facilities, swimming pools, club houses, maintenance and management buildings, and similar facilities primarily for the use of the residents.

Sec. 803. Conditional uses.

The following conditional uses shall be allowed in the RM-1 Multiple-Family Residential/Mixed Residential District:

(1) Same as R-2 District.

(2) Convalescent homes, nursing homes: on a site of at least five acres.

(3) Group housing at a density of at least 1,000 square feet lot area per person in residence.

(4) Bed and breakfast homes, subject to section 2114.

Sec. 804. Development Standards.

The following development standards shall apply to development in the RM-1 Multiple-Family Residential/Mixed Residential District:

(1) Parking: Parking shall be located behind the building. Garages should not protrude beyond the front façade of the building.

(2) Front Porches. Unenclosed front porches should be allowed to encroach up to 8 feet into the front yard setback area.

ARTICLE 9. RM-2 - MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 900. Intent.

(a) Same as RM-1 District. In this RM-2 District, structures of greater building height and density than in the RM-1 District are allowable as conditional uses. Density and lot area requirements of this district for multifamily dwellings of not more than two stories are greater than in RM-1 districts, reflecting improved environmental standards.

Sec. 901. Permitted principal uses.

The following principal uses shall be allowed in the RM-2, Multiple-Family Residential District:

(1) One-family dwellings, subject to the regulations of the R-2 District.

(2) Multifamily dwellings in buildings of not more than two stories, subject to the regulations of this district.

Sec. 902. Permitted accessory uses.

The following accessory uses shall be allowed in the RM-2, Multiple-Family Residential District:

(1) Same as RM-1 District.

Sec. 903. Conditional uses.

The following conditional uses shall be allowed in the RM-2, Multiple-Family Residential District:

(1) Same as RM-1 District.

(2) Multifamily dwellings in buildings of more than two stories but not more than six stories and 80 feet building height: subject to the area, height, bulk, and placement regulations for such building(s) in this district.

(3) Within a multifamily building containing at least 80 dwelling units, the following uses: restaurant, coffee shop, bookstore, barber shop, beauty shop, laundromat, valet service, drug store, and similar uses intended for the convenience and patronage of the building's residents. These uses are subject to the conditions set forth below:

a. The total floor area of any single such establishment shall not exceed 2,000 square feet.

b. The total floor area of all such establishments shall not exceed the number of dwelling units in the building times 100 square feet.

c. There shall be no outdoor advertising of such establishments other than one announcement sign not to exceed four square feet for each establishment.

d. Such other conditions as shall be required by the city planning commission in conjunction with approval of the site plan.

(4) Mixed-use residential/office developments may be permitted in the RM-2 districts, only after conditional use approval by the planning commission following a public hearing, and subject to the following standards:

a. Mixed-use projects may only include residential and office uses, except for buildings of at least 80 residential units which may include personal services establishments subject to subsection (3) of this section.

b. Only principal permitted office uses allowed in the O-2, Restricted Office districts may be included in mixed-use projects.

c. The maximum ratio of office to residential floor area, in percent, shall be 30 percent office to 70 percent residential.

d.

Mixed residential/office developments shall demonstrate separation of the two uses, either by floor, by means of design features such as special lobbies, or otherwise, to the satisfaction of the planning commission.

Sec. 904. Development Standards.

The following development standards shall apply to development in the RM-2, Multiple-Family Residential District:

(1) Parking: Parking shall be located behind the building. Garages should not protrude beyond the front façade of the building.

(2) Front Porches. Unenclosed front porches should be allowed to encroach up to 8 feet into the front yard setback area.

ARTICLE 10. RESERVED

ARTICLE 11. CBD, CENTRAL BUSINESS DISTRICT[1]

Sec. 1100. Intent.

(a) The CBD District is intended to function as an intensively developed, major business district, serving a large trade area extending beyond the city with retail, office, personal service, and institutional activities. To encourage and enhance pedestrian circulation, shopping safety, and convenience, certain uses are prohibited which tend to break up and disrupt the intensive concentration of pedestrian oriented uses, such as but not limited: automotive related service and repair including muffler shops, tire stores, quick lubes, auto body repair, engine rebuilding, brake shops, automotive stereo and telephone installation, and similar automotive related activities. Uses that do not typically generate walk in traffic may be restricted to upper stories.

(Ord. No. 2023-03, § 1, 4-24-2023)

Sec. 1101. Permitted principal uses.

[The following principal uses shall be allowed in the CBD, Central Business District:]

(1) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to: foods, drugs, liquor, furniture, clothing, dry goods, notions, or hardware.

[1]Editor's note(s)—Ord. No. 2023-03, § 1, adopted April 24, 2023, amended Art. 11, §§ 1100—1103 in its to read as herein set out. Former Art. 11 pertained to similar subject matter and derived from Ord. No. 2009-13, adopted May 11, 2009; Ord. No. 2009-21, pts. 2, 3, adopted November, 2009; Ord. No. 2009-22, pt. 2, adopted November 9, 2009.

(2) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers, and dry cleaners.

(3) Restaurants and taverns where patrons are served only while seated within the building occupied by such establishment.

(4) Theaters when completely enclosed; houses of worship.

(5) Offices and office buildings of an executive, administrative, or professional nature.* See below for restrictions.

(6) Banks, with drive-in facilities permitted when said drive-in facilities are incidental to the principal function.

(7) Municipal buildings and post office.

(8) Offices and showrooms of plumbers, electrician, decorators, or similar trades, in connection with which not more than 50 percent of the floor area of the building or part of the building occupied by said establishment is used for making, assembling, remodeling, repairing, altering, finishing, or refinishing its products or merchandise; and provided that the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices, or display. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.

(9) Business schools or private schools. Examples of private schools permitted herein include, but are not limited to, the following: dance studios, music and voice schools, and art studios.

(10) Newspaper offices and printing plants.* See below for restrictions.

(11) Warehouse and storage facilities when incident to and physically connected with any principal use permitted, provided that such facility be within the confines of the building or part thereof occupied by said establishment.* See below for restrictions.

(12) Bed and breakfast homes, subject to section 2114.

(13) Other uses which are similar to the above and subject to the following restrictions:

a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from the premises where produced.

b. All business, servicing, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

c. Outdoor storage of commodities shall be expressly prohibited.

* The uses set forth in section 1101(5), (10) and (11) are not permitted on street level for properties fronting Main Street between 2nd Street and University Drive.

(Ord. No. 2023-03, § 1, 4-24-2023)

Sec. 1102. Permitted accessory use.

[The following accessory uses shall be allowed in the CBD, Central Business District:]

(1) Any use or building customarily incidental to a permitted principal use excluding any type of use that would otherwise not be permitted on street level under section 1101.

(2) Mechanical amusement devises, not exceeding three per establishment, and:

a. Licensed under chapter 6 of the City Code;

b. Only in a restaurant or tavern conforming to section 1101(3), [related to] permitted principal uses;

c. If in a restaurant or tavern serving alcoholic beverages, the establishment shall have a Class C liquor license.

(Ord. No. 2023-03, § 1, 4-24-2023)

Sec. 1103. Conditional uses.

[The following conditional uses shall be allowed in the CBD, Central Business District:]

(1) Bus station.

(2) See section 2108 on public utilities and facilities.

(3) Outdoor dining, when incidental to a permitted restaurant or tavern, and subject to section 2121, outdoor dining standards.

Parking for an outdoor cafe shall be determined by the planning commission based upon the size of the outdoor dining area in relation to the permanent seating in the restaurant, as follows:

a. Outdoor dining areas that are strictly on a "weather permitting basis" may be approved without additional parking if there is seating for 30 or fewer patrons.

b. Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures to extend the season and/or to avoid inclement weather conditions, such as rain, may be required to provide additional parking.

c. In determining whether a restaurant must provide additional parking for its outdoor cafe, the planning commission will use the following guidelines:

1. If the outdoor seating is 25 percent or less of the seating capacity indoors, no additional parking is necessary.

2. If the outdoor seating is 26 to 50 percent of the seating capacity indoors, the restaurant may be required to provide an additional 25 percent of the parking required for the indoor space.

3. If the outdoor seating is over 50 percent of the seating capacity indoors, the restaurant may be required to provide an additional 50 percent of the parking required for the indoor space.

(4) Funeral home.

(5) Adult bookstore, adult cabaret and adult motion picture theater as defined in article 39 (Definitions), but subject to the standards of Article 21 Section 2124 (, which shall be in addition to those set forth in article 26 of this Zoning Code.

(6) See section 2111 on upper story apartments.

(7) Overnight lodging facilities subject to the following standards:

a. Each rental unit shall be no less than 250 square feet in floor area;

b. Each unit shall have its own private bathroom facility;

c. Rental units, including ancillary support spaces and uses, are not permitted on street levels.

(8) Short-term rental in accordance with the Rochester Rental Property Ordinance - Chapter 12 of the Rochester City Code and only to the extent residential uses are otherwise permitted.

(9) Architectural design standards shall conform to guidelines established in Section 2118.

(Ord. No. 2023-03, § 1, 4-24-2023; Ord. No. 2024-02, § 1, 7-8-2024)

ARTICLE 11A. DE-1 DOWNTOWN EDGE-1 DISTRICT

Sec 1100.A. Intent

(a) The Downtown Edge-1 District is intended as an extension of the central business district west of Main Street to promote the development of a pedestrian oriented and accessible, mixed-use district in which a variety of retail, commercial, office, service, civic and residential uses are permitted. Each use shall be complementary to the stated function and purpose of the district and shall not have adverse impact upon adjacent street capacity and safety, utilities, and other city services. The intent is to support the central business district, create a mix of businesses that encourages an active pedestrian environment and promotes both convenience and destination shopping activities while providing opportunities for other uses including office and service uses.

The district discourages the development of separate off-street parking facilities for each individual use and encourages the development of off-street parking facilities designed to accommodate the needs of several individual uses.

To encourage and enhance pedestrian circulation, shopping safety, and convenience, certain uses are prohibited which tend to break up and disrupt the intensive concentration of pedestrian oriented uses, such as but not limited: automotive related service and repair including muffler shops, tire stores, quick lubes, auto body repair, engine rebuilding, brake shops, automotive stereo and telephone installation, and similar automotive related activities.

SECTION 1101.A. Permitted principal uses.

The following principal uses shall be allowed in the DE-1, Downtown Edge 1 District:

(1) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to: foods, drugs, furniture, clothing, dry goods, notions, or hardware.

(2) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers, and dry cleaners.

(3) Restaurants and taverns where patrons are served only while seated within the building occupied by such establishment. An outdoor cafe, when accessory to a permitted restaurant or tavern, may be permitted as a conditional use. Nothing in this section shall be construed to prohibit an establishment that has a carry-out service, ice cream parlor, bakery or similar use where patrons may leave the establishment before consuming the food purchased.

(4) Residential units when located above the first floor per standards of Article 21 Section 2111.

(5) Theaters when completely enclosed.

(6) Municipal parking facilities such as surface parking lots and parking decks.

(7) Offices and office buildings of an executive, administrative, or professional nature.

(8) Financial institutions with no drive-through or drive-in facilities.

(9) Offices and showrooms of plumbers, electrician, decorators, or similar trades, in connection with which not more than fifty (50) percent of the floor area of the building or part of the building occupied by said establishment is used for making, assembling, remodeling, repairing, altering, finishing, or

refinishing its products or merchandise; and provided that the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices, or display. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.

(10) Business schools or private schools. Examples of private schools permitted herein include, but are not limited to, the following: dance studios, music and voice schools, and art studios.

(11) Other uses which are similar to the above and subject to the following restrictions:

a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from premises where produced.

b. All business, servicing, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

c. Outdoor storage of commodities shall be expressly prohibited.

SECTION 1102.A. Permitted accessory uses.

(1) Any use or building customarily incidental to a permitted principal use.

(2) Mechanical amusement devices, not exceeding three (3) per establishment, and:

a. Licensed under Chapter 6 of the City Code;

b. Only in a restaurant or tavern conforming to Number 3 above, permitted principal uses;

c. If in a restaurant or tavern serving alcoholic beverages, the establishment shall have a Class C liquor license.

SECTION 1103.A. Conditional Uses.

(1) See section 2108 on public utilities and facilities.

(2) Convenience stores that also sell liquor, subject to Article II. Liquor license Control in the City's Code of Ordinances.

(3) Outdoor cafe, when incidental to a permitted restaurant or tavern, where such outdoor cafe will not occupy any portion of a public right-of-way. A proposal for an outdoor cafe that includes the use of any part of a public right-of-way must be accomplished by a draft license agreement, utilizing the City Council's standard license agreement format. A copy of the format for the standard license agreement may be obtained with the Conditional Use application. After Planning Commission approval of Conditional Use, the proposed license agreement will be forwarded to the City Council for their consideration. Nothing in this section shall be construed to require a license agreement for an establishment with a carry-out service, ice cream parlor, or similar use where patrons may leave the establishment before consuming the food purchased, unless said establishment chooses to operate an outdoor cafe and seeks approval as set forth above.

Parking for an outdoor cafe shall be determined by the Planning Commission based upon the size of the outdoor dining area in relation to the permanent seating in the restaurant, as follows:

a. Outdoor dining areas that are strictly on a "weather permitting basis" may be approved without additional parking if there is seating for 30 or fewer patrons,

b. Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures to extend the season and/or to avoid inclement weather conditions, such as rain, may be required to provide additional parking.

c. In determining whether a restaurant must provide additional parking for its outdoor cafe, the Planning Commission will use the following guidelines:

1. If the outdoor seating is 25% or less of the seating capacity indoors, no additional parking is necessary.

2. If the outdoor seating is 26% - 50% of the seating capacity indoors, the restaurant may be required to an additional 25% parking beyond the parking required for the indoor space.

3. If the outdoor seating is over 50% of the seating capacity indoors, the restaurant may be required to provide an additional 50% parking beyond the parking required for the indoor space.

(4) Funeral home.

(5) Houses of worship.

(6) Bed & breakfast homes, subject to Section 2114.

SECTION 1104.A. Development standards.

The required minimum useable floor area, minimum required setback dimensions, maximum building height, minimum area, and lot size for the Downtown Edge-2 District shall be as set forth in this section.

(1) Front Yard. Buildings shall be built at zero setback; however, the Planning Commission shall have the discretion to modify the setback requirement as part of site plan review and approval pursuant to Article 27 of the Zoning Ordinance. Factors taken into consideration for such modification shall include but not be limited to predominant building line established along the block face between the two closest intersecting streets, creation of plazas or other public amenities into the area of the proposed setback.

(2) Patios or outdoor decks located on public sidewalks shall be located in a manner adequate to allow for a minimum 5 foot pedestrian clearance on the sides.

(3) Patios or outdoor decks located in the block extending between Pine and Walnut, W. University and E. Fourth Street shall be located with a minimum setback of 10 feet from the property lines. The setback area shall be planted with a dense stand of evergreens to create a screen six (6) feet tall or other form of landscaping and/or screening deemed suitable by the Planning Commission, to mitigate any noise issues and concerns for abutting residentially zoned or used properties. Roof top dining areas/terraces shall be provided with screening to the satisfaction of the Planning Commission that mitigates noise concerns. The Planning Commission may also place restrictions on the hours of operation of such outdoor patio/deck/rooftop dining areas as a conditional use.

(4) Side Yard, corner lot. Structures are recommended to be built at side lot line with no setbacks. Maximum setback dimensions of the principal building(s) and attachments thereto, on a corner lot having on its side street an abutting interior lot shall not exceed 10 feet.

(5) Rear Yard. Minimum required setback shall be 5 feet.

(6) Building Height. The maximum height of the principal building shall not exceed 35 feet or 3 stories. All proposed structures must meet line-of-sight test established with an existing two-story structure located on Main Street within downtown.

(7) Architectural design standards shall conform to guidelines established in Section 2118.

(8) Parking. Parking may be accommodated as on-site decks or integrated into the building design. Access to parking off public alleys shall be appropriately screened. Use of public parking/decks is encouraged.

(9) Frontage on Walnut Street must be occupied by storefronts and access to ground story parking must be off public alley. For corner lots, access to parking may be allowed from the side street, upon Planning Commission review and approval of the site plan design and layout.

ARTICLE 11B. DE-2 DOWNTOWN EDGE-2 DISTRICT

SECTION 1100.B. INTENT

(a) The Downtown Edge-2 District is intended as an extension of the downtown's core area to the east of Main Street, extending between the alley on the east side of Main Street to Water Street, and from W. University Drive to Mill Street. The district also includes parcels on the west side of Main Street occupying the block between W. Second and First streets, extending from Walnut to the alley to its east; also included are a block of parcels on the north side of W. University Drive, west of Main Street. With the core area being maximized with many established uses and limited area for new businesses to come into the downtown, the Edge-2 district encourages expansion of businesses from the downtown core, while making provisions for parking to support downtown businesses. Allowing for additional business expansion from the downtown is intended to add to the City's tax base.

The east side of Main Street is not limited by proximity to residential neighborhoods unlike the west side of Main Street; therefore, the scope for additional business and service uses is greater. The parcels on the west side of Main Street within this district, abuts multiple family and commercial/office zoned and use parcels. The design guidelines provided are intended to minimize potential impacts of the uses allowable within the district on the surrounding areas. The intent is to allow for a mix of commercial and loft style residential units and parking facilities. Due to the drop in grade on the east side of Main Street, this district could be allowed a higher density of development but only to the extent that it does not detract from the Main Street skyline. <u>While the uses proposed in this district are intended to continue the pedestrian-centric design of the downtown, some higher intensity vehicle uses can also be accommodated in this district. Extensive automotive uses are not appropriate for this area; however may be considered in a very limited area on the east side of Main Street, along the south border of the district based on existing land use patterns</u>.

SECTION 1101.B. Permitted principal uses.

The following principal uses shall be allowed in the DE-2, Downtown Edge 2 District:

(1) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to: foods, drugs, liquor, furniture, clothing, dry goods, notions, or hardware.

(2) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers, and dry cleaners.

(3) Restaurants and taverns where patrons are served only while seated within the building occupied by such establishment. An outdoor cafe, when accessory to a permitted restaurant or tavern, may be permitted as a Conditional Use. Nothing in this section shall be construed to prohibit an establishment that has a carry-out service, ice cream parlor, bakery or similar use where patrons may leave the establishment before consuming the food purchased.

(4) Residential units when located above the first floor per standards of Article 21 Section 2111.

(5) Theaters when completely enclosed.

(6) Houses of worship.

(7) Municipal parking facilities such as surface parking lots and parking decks.

(8) Offices and office buildings of an executive, administrative, or professional nature.

(9) Banks, with drive-in facilities permitted when said drive-in facilities are incidental to the principal function.

(10) Offices and showrooms of plumbers, electrician, decorators, or similar trades, in connection with which not more than fifty (50) percent of the floor area of the building or part of the building occupied by said establishment is used for making, assembling, remodeling, repairing, altering, finishing, or refinishing its products or merchandise; and provided that the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices, or display. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.

(11) Business schools or private schools. Examples of private schools permitted herein include, but are not limited to, the following: dance studios, music and voice schools, and art studios.

(12) Other uses which are similar to the above and subject to the following restrictions:

a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from premises where produced.

b. All business, servicing, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

c. Outdoor storage of commodities shall be expressly prohibited.

SECTION 1102.B. Permitted accessory uses.

(1) Any use or building customarily incidental to a permitted principal use.

(2) Mechanical amusement devices, not exceeding three (3) per establishment, and:

a. Licensed under Chapter 6 of the City Code;

b. Only in a restaurant or tavern conforming to Number 3 above, Permitted Principal Uses;

c. If in a restaurant or tavern serving alcoholic beverages, the establishment shall have a Class C liquor license.

(3) Warehouse and storage facilities when incident to and physically connected with any principal use permitted, provided that such facility is located within the confines of the building or part thereof occupied by said establishment.

SECTION 1103.B. Conditional Uses.

(1) Public utilities and facilities.

(2) Outdoor cafe, when incidental to a permitted restaurant or tavern, where such outdoor cafe will not occupy any portion of a public right-of-way. A proposal for an outdoor cafe that includes the use of any part of a public right-of-way must be accomplished by a draft license agreement, utilizing the City Council's standard license agreement format. A copy of the format for the standard license agreement may be obtained with the Conditional use application. After Planning Commission approval of the Conditional use, the proposed license agreement will be forwarded to the City Council for their consideration. Nothing in this section shall be construed to require a license agreement for an establishment with a carry-out service, ice cream parlor, or similar use where patrons may leave the establishment before consuming the food purchased, unless said establishment chooses to operate an

outdoor cafe and seeks approval as set forth above.

Parking for an outdoor cafe shall be determined by the Planning Commission based upon the size of the outdoor dining area in relation to the permanent seating in the restaurant, as follows:

a. Outdoor dining areas that are strictly on a "weather permitting basis" may be approved without additional parking if there is seating for 30 or fewer patrons,

b. Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures to extend the season and/or to avoid inclement weather conditions, such as rain, may be required to provide additional parking.

c. In determining whether a restaurant must provide additional parking for its outdoor cafe, the Planning Commission will use the following guidelines:

1. If the outdoor seating is 25% or less of the seating capacity indoors, no additional parking is necessary.

2. If the outdoor seating is 26% - 50% of the seating capacity indoors, the restaurant may be required to provide an additional 25% parking beyond the parking required for the indoor space.

3. If the outdoor seating is over 50% of the seating capacity indoors, the restaurant may be required to provide an additional 50% parking beyond the parking required for the indoor space.

(3) Funeral home.

(4) Bed & breakfast homes, subject to Section 2114.

SECTION 1104.B. Development standards.

The required minimum useable floor area, minimum required setback dimensions, maximum building height, minimum area, and lot size for the Downtown Edge-2 District shall be as set forth in this section.

(1) Front Yard. The predominant existing pattern of development features structures built at setbacks of 5-10 feet with landscaping between the sidewalk and building. Structures are recommended to be built at a setback consistent with the established front yard setback on the block on that side of the street.

(2) Patios or outdoor decks located on public sidewalks shall be located in a manner adequate to allow for a minimum 5-foot pedestrian clearance on the sides.

(3) Side Yard, corner lot. Structures are recommended to be built at side lot line with no setbacks. Maximum setback dimensions of the principal building(s) and attachments thereto, on a corner lot having on its side street an abutting interior lot shall not exceed 10 feet.

(4) Rear Yard. Minimum required setback shall be 5 feet.

(5) Building Height. Maximum height of the principal building shall not exceed 40 feet or 3 stories. However, the grade drop-off allows for flexibility in building height in this district. Additional building height shall be permitted through the special projects approval process upon demonstration by the applicant that the proposed increase in building height will not exceed the line of sight test from Main Street.

(6) Architectural design standards shall conform to guidelines established in Section 2118.

Parking. Parking shall be accommodated as on-site decks or integrated into the building design.

ARTICLE 11C. T - TRANSITION DISTRICT

SECTION 1100.C. Intent

(a) The Transition District is intended to act as a buffer between the higher intensity commercial uses in the Central Business District and the Downtown Edge-1 District and adjacent single family residential neighborhoods. The uses supported in this area are a mix of residential, office and low-intensity commercial uses. Several buildings in this area have historic significance and the goal is to preserve their historic integrity while allowing for their successful adaptation for new uses. The buffering goal is intended to be accomplished through a combination of site design, setbacks and landscaping. Emphasis is on preserving historic structures and allowing for minimal impact on the single-family residential districts by limiting all vehicular access to Walnut only.

The T district is further intended to maintain and enhance a viable mix of complimentary uses and discourage domination by any single category of use; preserve and enhance the historic character as a community asset that contributes positively to property values, community identity, and a sense of place; extend greater opportunities for traditional community living, working, housing and recreation to citizens and residents of the city; promote developments where the physical, visual and spatial characteristics are established and reinforced through the consistent use of traditional urban design and architectural design elements; discourage commercial and business uses that create objectionable noise, glare or odors; promote uses that support and compliment the retail focus of the Central Business District, such as office and residential uses. The district is referred to in the Master Plan as a larger Downtown Interface area.

SECTION 1101.C. Permitted principal uses.

The following principal uses shall be allowed in the T, Transition District:

(1) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to: foods, drugs, furniture, clothing, dry goods, notions, or hardware.

(2) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers, and dry cleaners.

(3) Restaurants and taverns where patrons are served only while seated within the building occupied by such establishment. An outdoor cafe, when accessory to a permitted restaurant or tavern, may be permitted as a conditional use. Nothing in this section shall be construed to prohibit an establishment that has a carry-out service, ice cream parlor, bakery or similar use where patrons may leave the establishment before consuming the food purchased.

(4) One-family detached dwellings subject to the regulations of the R-1 District.

(5) Two-family dwellings subject to the regulations of the RT District.

(6) Residential units when located above the first floor per standards of Article 21 Section 2111.

(7) Municipal parking facilities such as surface parking lots and parking decks.

(8) Offices of an executive, administrative, or professional nature.

(9) Medical and dental office buildings.

(10) Financial institutions with no drive-through or drive-in facilities.

(11) Other uses which are similar to the above and subject to the following restrictions:

a) That the proposed use(s) will contribute to the viable mix of uses in the district;

b) Is compatible with the uses permitted in the district;

c) Will meet the transition intent of the district;

d) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from the premises where produced.

e) All business, servicing, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

f) Outdoor storage of commodities shall be expressly prohibited.

SECTION 1102.C. Permitted Accessory Use

1. Any use or building customarily incidental to a permitted principal use.

SECTION 1103.C. Conditional Uses

(1) Public utilities and facilities.

(2) Funeral homes.

(3) Outdoor cafe, when incidental to a permitted restaurant or tavern, where such outdoor cafe will not occupy any portion of a public right-of-way. A proposal for an outdoor cafe that includes the use of any part of a public right-of-way must be accomplished by a draft license agreement, utilizing the City Council's standard license agreement format. A copy of the format for the standard license agreement may be obtained with the Conditional use application. After Planning Commission approval of the Conditional use, the proposed license agreement will be forwarded to the City Council for their consideration. Nothing in this section shall be construed to require a license agreement for an establishment with a carry-out service, ice cream parlor, or similar use where patrons may leave the establishment before consuming the food purchased, unless said establishment chooses to operate an outdoor cafe and seeks approval as set forth above.

Parking for an outdoor cafe shall be determined by the Planning Commission based upon the size of the outdoor dining area in relation to the permanent seating in the restaurant, as follows:

a. Outdoor dining areas that are strictly on a "weather permitting basis" may be approved without additional parking if there is seating for 30 or fewer patrons,

b. Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures to extend the season and/or to avoid inclement weather conditions, such as rain, may be required to provide additional parking.

c. In determining whether a restaurant must provide additional parking for its outdoor cafe, the Planning Commission will use the following guidelines:

    1. If the outdoor seating is 25% or less of the seating capacity indoors, no additional parking is necessary.

    2. If the outdoor seating is 26% - 50% of the seating capacity indoors, the restaurant may be required to provide an additional 25% parking beyond the parking required for the indoor space.

    3. If the outdoor seating is over 50% of the seating capacity indoors, the restaurant may be required to provide an additional 50% parking beyond the parking required for the indoor space.

(4) Houses of worship.

(5) Bed & breakfast homes, subject to Section 2114.

SECTION 1104.C. Development Standards.

The required minimum useable floor area, minimum required setback dimensions, maximum building height, minimum area, and lot size for the Transition (T) District shall be as set forth in this section.

(1) Front Yard (including both street frontages on through lots). Buildings shall be built at a 15-foot setback to maintain the residential character; however, the Planning Commission shall have the discretion to modify the setback requirement as part of site plan review and approval pursuant to Article 27 of the Zoning Ordinance. Factors taken into consideration for such modification shall include but not limited to the predominant building line established along the block face between the two closest intersecting streets, existing building footprint and historic details.

(2) Side Yard. Total of 15 feet with a minimum of 5 feet on each side. Required side yard setback for a comer lot with a side street shall be 15 feet.

(3) Building Height. The maximum height of the principal building shall not exceed 25 feet or 2 stories in keeping with the residential buffer intent of the district.

(4) Access. If a site has access to Walnut Street and Pine Street, the primary pedestrian entrance to the use shall be off Walnut Street or off the side street for a corner lot. Secondary pedestrian access to Pine Street shall be permitted, if required to conform to Building Code standards. All vehicular access shall be limited to Walnut Street only for those sites with access to Walnut Street and Pine Street.

(5) Architectural design standards shall conform to guidelines established in Section 2118.

(6) Parking. Parking may be accommodated on-site or integrated into the building design.

ARTICLE 11D. MU - MIXED-USE DISTRICT

SECTION 1100.D. Intent

(a) The Mixed-Use District is intended to support a wide range of uses and allow for design flexibility. The district can support a variety of commercial, office and residential uses. The natural topography of the various areas within this district varies significantly, which makes building height a significant consideration to ensure little to no impact on the skyline of the traditional Central Business District. The proximity to the Clinton River Trail and the Paint Creek Trail allows for residential developments which would provide recreational amenities and opportunities for the residents. At the same time, the location of some parcels just north of the Central Business District provides opportunities for commercial and mixed uses. The district is oriented towards serving both pedestrian and automotive traffic. The district is referred to in the Master Plan as a larger Downtown Interface area.

SECTION 1101.D. Permitted Principal Uses

The following principal uses shall be allowed in the MU, Mixed-Use District:

(1) Two-family dwellings subject to the regulations of the RT District.

(2) Residential units when located above the first floor per standards of Article 21 Section 2111.

(3) Multiple family dwellings subject to the regulations of the RM-2 District.

(4) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to: foods, drugs, liquor, furniture, clothing, dry

goods, notions, or hardware.

(5) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shops (watches, computers, electronic equipment, personal items such as shoes, etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers, and dry-cleaning outlets only, excluding processing facilities.

(6) Restaurants and taverns where patrons are served only while seated within the building occupied by such establishment. An outdoor cafe, when accessory to a permitted restaurant or tavern, may be permitted as a Conditional Use. Nothing in this section shall be construed to prohibit an establishment that has a carry-out service, ice cream parlor, bakery or similar use where patrons may leave the establishment before consuming the food purchased.

(7) Breweries.

(8) Carry-out food establishments, without drive-through facilities.

(9) Office of an executive, administrative, or professional nature.

(10) Medical and dental office uses.

(11) Financial institutions with drive-in facilities permitted when said drive-in facilities are incidental to the principal function.

(12) Offices and showrooms of plumbers, electrician, decorators, or similar trades, in connection with which not more than fifty (50) percent of the floor area of the building or part of the building occupied by said establishment is used for making, assembling, remodeling, repairing, altering, finishing, or refinishing its products or merchandise; and provided that the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices, or display. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.

(13) Health and physical fitness centers including exercise gyms, workout centers, dance and gymnastic studios, yoga, martial arts and other forms of exercise and physical conditioning.

(14) Veterinary hospitals, excluding kennels.

(15) Places of assembly such as theaters, dance halls, assembly halls or similar facilities.

(16) Other uses which are similar to the above and subject to the following restrictions:

a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from the premises where produced.

b. All business, servicing, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

c. Outdoor storage of commodities shall be expressly prohibited.

SECTION 1102.D. Permitted Accessory Use

1. Any use or building customarily incidental to a permitted principal use.

SECTION 1103.D. Conditional Uses

(1) Outdoor cafe, when incidental to a permitted restaurant or tavern, where such outdoor cafe will not occupy any portion of a public right-of-way. A proposal for an outdoor cafe that includes the use of any part of a public right-of-way must be accomplished by a draft license agreement, utilizing the City

Council's standard license agreement format. A copy of the format for the standard license agreement may be obtained with the Conditional Use application. After Planning Commission approval of Conditional Use, the proposed license agreement will be forwarded to the City Council for their consideration. Nothing in this section shall be construed to require a license agreement for an establishment with a carry-out service, ice cream parlor, or similar use where patrons may leave the establishment before consuming the food purchased, unless said establishment chooses to operate an outdoor cafe and seeks approval as set forth above.

Parking for an outdoor cafe shall be determined by the Planning Commission based upon the size of the outdoor dining area in relation to the permanent seating in the restaurant, as follows:

a. Outdoor dining areas that are strictly on a "weather permitting basis" may be approved without additional parking if there is seating for 30 or fewer patrons,

b. Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures to extend the season and/or to avoid inclement weather conditions, such as rain, may be required to provide additional parking.

c. In determining whether a restaurant must provide additional parking for its outdoor café, the Planning Commission will use the following guidelines:

    1. If the outdoor seating is 25% or less of the seating capacity indoors, no additional parking is necessary.

    2. If the outdoor seating is 26% - 50% of the seating capacity indoors, the restaurant may be required to provide an additional 25% parking beyond the parking required for the indoor space.

    3. If the outdoor seating is over 50% of the seating capacity indoors, the restaurant may be required to provide an additional 50% parking beyond the parking required for the indoor space.

2. Public utilities and facilities.

3. Funeral homes.

4. Senior housing facilities such as convalescent homes, assisted living and independent living facilities.

5. Hotels.

6. Parking garages and decks.

SECTION 1103.D. Development Standards.

The required minimum useable floor area, minimum required setback dimensions, maximum building height, minimum area, and lot size for the Mixed Use (MU) District shall be as set forth in this section.

(1) The minimum required lot width shall be 50 feet.

(2) Front Yard. Structures shall be built at front lot line with no minimum front yard setback; However, the Planning Commission shall have the discretion to modify the setback requirement as part of site plan review and approval pursuant to Article 27 of the Zoning Ordinance. Factors taken into consideration for such modification shall include but not be limited to predominant building line established along the block face between the two closest intersecting streets, creation of plazas or other public amenities into the area of the proposed setback.

(3) Side Yard, corner lot. For a corner lot abutting a side street, a minimum setback of 10 feet shall be maintained.

(4) Rear Yard. There is no minimum rear yard setback requirement.

(5) Lot Coverage. Maximum lot coverage shall not exceed 50%.

(6) Building Height. Due to the varied location and existing topography of parcels in this district, the followings standards shall apply:

a. Parcels located on the west side of Elizabeth between East University Drive and E. Second Street, and parcels located on east side of Letica between Parkdale and E. Second Street shall be permitted a maximum building height not to exceed 5 stories or 60 feet. Buildings shall not be less than 4 stories or 48 feet tall, to allow for all rooftop mechanical equipment to be concealed with the use of parapets or other screens, within the maximum permissible height and to maintain a consistent skyline. Buildings taller than that can be approved by the Planning Commission subject to demonstration with skyline tests, detailed diagrams and simulated drawings that the proposed building will not be visible from Main Street. Buildings not meeting the skyline test may not be permitted to exceed the height recommendation even through the special projects approval process.

b. Parcels located with frontage on Main Street, shall be permitted a maximum building height not to exceed 2-1/2 stories or 35 feet. All projects must demonstrate through a skyline test and detailed diagrams that the proposed building will not impact or affect the appearance of the existing downtown core buildings. Buildings shall not be allowed to exceed the maximum permitted height even through the special projects approval process.

c. Buildings accessory to a principal permitted or conditional land use, such as a clubhouse etc., may be less than the minimum height for the district, subject to review and approval of the site plan by the Planning Commission.

(8) Architectural design standards shall conform to guidelines established in Section 2118.

(9) Parking. Parking shall be accommodated on-site within the side or rear yard and screened with landscaping and other decorative elements. Parking may also be located off-site, within convenient walking distance for pedestrians. Use of integrated parking decks to accommodate the parking is encouraged. Parking garages or decks, when provided, shall be accessed from rear or side yard only.

ARTICLE 11E. MU-1 - MIXED USE – 1 DISTRICT

SECTION 1100.E. Intent

(a) The Mixed Use-1 District is intended to support a wide range of uses and allow for design flexibility, while still acting as a transition from the downtown district located to its west. This district can support a variety of commercial, office and residential uses. The natural topography of the area, with a steep grade drop-off heading from Main Street to the east boundary of the district allows for buildings of taller stature without impacting the skyline of the downtown core area. The lack of any single-family residential neighborhoods in the immediate proximity to this area allows for the inclusion of intensive commercial and office uses of land without significant impacts. The proximity to the Clinton River Trail and the Paint Creek Trail allows for residential developments which would provide recreational amenities and opportunities for the residents. The district is oriented towards serving both pedestrian and automotive traffic. The district is referred to in the Master Plan as a larger Downtown Interface area.

SECTION 1101.E. Permitted Principal Uses

(1) Two-family dwellings subject to the regulations of the RT District.

(2) Residential units when located above the first floor per standards of Article 21 Section 2111.

(3) Multiple family dwellings subject to the regulations of the RM-2 District.

(4) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to: foods, drugs, liquor, furniture, clothing, dry goods, notions, or hardware.

(5) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers, and dry cleaning outlets only, excluding processing facilities.

(6) Restaurants and taverns where patrons are served only while seated within the building occupied by such establishment. An outdoor cafe, when accessory to a permitted restaurant or tavern, may be permitted as a Conditional Use. Nothing in this section shall be construed to prohibit an establishment that has a carry-out service, ice cream parlor, bakery or similar use where patrons may leave the establishment before consuming the food purchased.

(7) Breweries.

(8) Carry-out food establishments, without drive-through facilities.

(9) Office of an executive, administrative, or professional nature.

(10) Medical and dental office uses.

(11) Banks, with drive-in facilities permitted when said drive-in facilities are incidental to the principal function.

(12) Offices and showrooms of plumbers, electrician, decorators, or similar trades, in connection with which not more than fifty (50) percent of the floor area of the building or part of the building occupied by said establishment is used for making, assembling, remodeling, repairing, altering, finishing, or refinishing its products or merchandise; and provided that the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices, or display. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.

(13) Health and physical fitness centers including exercise gyms, workout centers, dance and gymnastic studios, yoga, martial arts and other forms of exercise and physical conditioning.

(14) Commercial recreational facilities such as swim schools.

(15) Veterinary hospitals, excluding kennels.

(16) Places of assembly such as theater, dance hall, assembly halls or similar facilities.

(17) Other uses which are similar to the above and subject to the following restrictions:

a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from premises where produced.

b. All business, servicing, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

c. Outdoor storage of commodities shall be expressly prohibited.

SECTION 1102.E. Permitted Accessory Use

(1) Any use or building customarily incidental to a permitted principal use.

SECTION 1102.E. Conditional Uses

(1) Any use or building customarily incidental to a permitted principal use.

(2) Outdoor cafe, when incidental to a permitted restaurant or tavern, where such outdoor cafe will not

occupy any portion of a public right-of-way. A proposal for an outdoor cafe that includes the use of any part of a public right-of-way must be accomplished by a draft license agreement, utilizing the City Council's standard license agreement format. A copy of the format for the standard license agreement may be obtained with the Conditional Use application. After Planning Commission approval of Conditional Use, the proposed license agreement will be forwarded to the City Council for their consideration. Nothing in this section shall be construed to require a license agreement for an establishment with a carry-out service, ice cream parlor, or similar use where patrons may leave the establishment before consuming the food purchased, unless said establishment chooses to operate an outdoor cafe and seeks approval as set forth above.

(3) Parking for an outdoor cafe shall be determined by the Planning Commission based upon the size of the outdoor dining area in relation to the permanent seating in the restaurant, as follows:

a. Outdoor dining areas that are strictly on a "weather permitting basis" may be approved without additional parking if there is seating for 30 or fewer patrons,

b. Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures to extend the season and/or to avoid inclement weather conditions, such as rain, may be required to provide additional parking.

c. In determining whether a restaurant must provide additional parking for its outdoor café, the Planning Commission will use the following guidelines:

1. If the outdoor seating is 25% or less of the seating capacity indoors, no additional parking is necessary.

2. If the outdoor seating is 26% - 50% of the seating capacity indoors, the restaurant may be required to provide up to 25% additional parking beyond the parking required for the indoor space.

3. If the outdoor seating is over 50% of the seating capacity indoors, the restaurant may be required to provide up to 50% additional parking beyond the parking required for the indoor space.

(4) Public utilities and facilities.

(5) Funeral homes.

(6) Senior housing facilities such as convalescent homes, assisted living and independent living facilities.

(7) Hotels.

(8) Parking garages and decks.

SECTION 1103.E. Development Standards.

The required minimum useable floor area, minimum required setback dimensions, maximum building height, minimum area, and lot size for the Mixed Use-1 District shall be as set forth in this section.

(1) Front Yard. Structures shall be built at front lot line with no minimum front yard setback; However, the Planning Commission shall have the discretion to modify the setback requirement as part of site plan review and approval pursuant to Article 27 of the Zoning Ordinance. Factors taken into consideration for such modification shall include but not be limited to predominant building line established along the block face between the two closest intersecting streets, creation of plazas or other public amenities into the area of the proposed setback.

(2) Side Yard, corner lot. For a corner lot abutting a side street, a minimum setback of 10 feet shall be maintained.

(3) Rear Yard. There is no minimum rear yard setback requirement.

(4) Lot Coverage. Maximum lot coverage shall not exceed 75%.

(5) Building Height. Due to the existing grade allowing for higher density of development on the parcels located within this district, minimum building height shall be 3 stories. To ensure optimal use of land and prevent the construction of single and two-story structures which would allow for roof-tops and mechanical equipment to be visible, the minimum building height shall be maintained. Maximum height of the principal building shall not exceed 5 stories or 60 feet and shall be determined through application of the skyline test. Buildings taller than that can be approved by Planning Commission subject to demonstration with detailed diagrams and simulated drawings that proposed building will not be visible from Main Street. Buildings not meeting the skyline test may not be permitted to exceed the height recommendation even through the special projects approval process.

(6) Buildings accessory to a principal permitted or conditional land use, such as a clubhouse etc., may be less than the minimum height for the district, subject to review and approval of the site plan by the Planning Commission.

(7) Architectural design standards shall conform to guidelines established in Section 2118.

Parking. Parking shall be accommodated on-site and shall be located pre-dominantly in the rear yard, screened with landscaping and other decorative elements. Use of integrated parking decks to accommodate the parking is encouraged.2

ARTICLE 12. P-1 VEHICULAR PARKING DISTRICT

Sec. 1200. Intent.

(a) This district is intended to accommodate vehicular off-street parking lots, publicly or privately owned, to serve nearby uses that are unable to provide adequate parking on the premises. The zoning of certain areas near the CBD District for P-1, Parking District, complements the CBD District intent of an intensively developed, pedestrian oriented business district, by placement of parking around rather than within the CBD District.

Sec. 1201. Permitted principal uses.

[The following principal uses shall be allowed in the P-1, Vehicular Parking District:]

(1) Shelter for attendant, not to exceed 15 feet in height, and accessory gates, meters, and signs in accordance with article 24.

Sec. 1202. Conditional uses.

(a) See section 2108, regarding public utilities and facilities.

ARTICLE 13. B-1, GENERAL BUSINESS DISTRICT

Sec. 1300. Intent.

(a) The B-1 District is intended to accommodate certain generally recognized business uses and buildings which may or may not be allowed in the CBD District. All B-1 business uses are required to be conducted within completely enclosed buildings, and shall not include uses that typically have the need for overnight parking facilities. The B-1 zones are set aside for more intensive business uses but intended to exclude those not limited to: automotive related service and repair including muffler shops, tire stores, quick lubes, auto body repair, engine rebuilding, brake shops, automotive stereo and telephone installation, and similar automotive related activities.

Sec. 1301. Permitted principal uses.

[The following principal uses shall be allowed in the B-1, General Business District:]

(1) Same as CBD District, subject to the regulations of this district.

(2) Showroom for sales of new automobiles and other vehicles, and ancillary service garage.

(3) Funeral home.

(4) Private club, lodge hall.

(5) Offices, clinics.

(6) Public utility exchange, transformer station and sub-station, pump station, excluding storage yards.

(7) Laundry and dry cleaning establishments primarily for retail patronage.

(8) Pool rooms, bowling alleys, and other public recreation halls licensed under chapter 6 of the City Code; including any establishment operating any mechanical amusement devises, are prohibited in all other districts; provided, however, that mechanical amusement devices are permitted as an accessory use only in the B-1, B-2, and CBD Districts under the conditions set forth in this ordinance for those districts under [section 1302,] permitted accessory uses.

(9) Retail, office, or service uses which are similar to the permitted principal uses.

Sec. 1302. Permitted accessory uses.

[The following accessory uses shall be allowed in the B-1, General Business District:]

(1) Accessory structures and uses customarily incidental to a permitted principal use.

(2) Mechanical amusement devices, not exceeding three per establishment, and:

   a. Licensed under chapter 6 of the City Code;

   b. Only in a tavern or restaurant with a Class C liquor license.

Sec. 1303. Conditional uses.

[The following conditional uses shall be allowed in the B-1, General Business District:]

(1) Outdoor sales of secondhand automobiles, trucks, trailers, or other vehicles. No major repair or major refurbishment shall be permitted on the lot.

(2) Overnight lodging facilities subject to the following standards:

   a. Each rental unit shall be no less than 250 square feet in floor area; and

   b. Each unit shall have its own private bathroom facility.

(3) Drive-in restaurant or open-front store, subject to the following standards:

   a. Uses with a drive-up or pick-up window shall provide not less than six off-street waiting spaces for each such window. The site plan shall clearly demonstrate that the waiting spaces will not interfere with pedestrian and vehicular circulation on-site nor shall they block any off-street parking spaces or impede access by emergency vehicles.

   b. The order station shall be located at least 50 feet from the boundary of an adjoining residential district. The order station loudspeaker shall face away from the residential district.

   c. Twenty-four-hour operation of drive-thru facilities and open-front stores shall be prohibited. The planning commission shall prescribe closing hours for the drive-thru window where protection of adjoining residences from late night noise and lighting is necessary.

d. All outdoor lighting shall be designed to provide adequate safety on-site without causing late night glare or illumination on adjoining properties.

e. Dumpsters shall not be located immediately adjoining a residential district. The enclosure shall provide a hose bib and a drain connected to the sanitary sewer. The trash container shall be emptied daily (Monday through Friday) and hosed out with fresh water when necessary to keep odors to a minimum.

f. The site plan shall demonstrate to the satisfaction of the planning commission, that the layout and design proposed will have no adverse impacts on adjoining properties from such things as traffic, lighting, noise, odors, congregations of persons, and the like.

(4) Gasoline auto service stations for sale of gasoline, oil, minor accessories and minor repairs, but not including body repair, engine rebuilding, rust-proofing, and similar activities, may be permitted in the B-1 district, subject to the following:

a. All repairs shall occur within a completely enclosed building.

b. No vehicles awaiting repair shall remain on-site for more than 72 hours.

c. All parking areas shall be paved and screened from public view by a minimum four-foot-six-inch high masonry wall of face brick. In place of the masonry wall, an alternative method of screening may be used, subject to approval by the planning commission upon a finding that it is more appropriate for the particular site and its neighbors.

d. All trash storage areas shall be screened from view by a six foot high enclosure approved by the planning commission. Old parts such as tires, mufflers, pipes, and the like, shall be kept inside the enclosure and shall not be permitted to accumulate for periods longer than one week unless stored within the building.

e. Management plans shall be submitted for the collection, storage, and recycling or proper disposal of all used or waste automotive fluids resulting from repair or service operations.

(5) See section 2108 on public utilities and facilities.

(6) Dance halls, subject to the licensing requirements of chapter 6 of the City Code and the following special requirements:

a. The site plan shows a proper relationship exists between the proposed use and adjoining uses such that dance hall customers will not impede access to any nearby business and/or residence.

b. Adequate consideration is given to emergency exit from the building.

c. A proper relationship exists between pedestrian and vehicular circulation on-site such that points of pedestrian/vehicular conflict are minimized.

d. The density of such uses shall be limited by maintaining a minimum spacing of 2,000 feet between any two dance halls, not less than 1,000 feet from an arcade, and not less than 500 feet from any residential zoning district.

(7) Outdoor, dining, when incidental to a permitted restaurant or tavern, and subject to section 2121, outdoor dining standards.

Parking for an outdoor cafe shall be determined by the planning commission based upon the size of the outdoor dining area in relation to the permanent seating in the restaurant, as follows:

a. Outdoor dining areas that are strictly on a "weather permitting basis" may be approved without additional parking if there is seating for 30 or less patrons.

b. Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures to extend the season and/or to avoid inclement weather conditions, such as rain, may be required to provide additional parking.

c. In determining whether a restaurant must provide additional parking for its outdoor cafe, the planning commission will use the following guidelines:

1. If the outdoor seating is 25 percent or less of the seating capacity indoors, no additional parking is necessary.

2. If the outdoor seating is 26 to 50 percent of the seating capacity indoors, the restaurant may be required to provide up to 125 percent of the parking required for the indoor space.

3. If the outdoor seating is over 50 percent of the seating capacity indoors, the restaurant may be required to provide up to 150 percent of the parking required for the indoor space.

(8) See section 2111 on upper story apartments.

(9) Bus passenger stations may be permitted in the B-1 districts only, subject to the following standards:

a. There shall be no storage, overnight parking, or maintenance of buses on-site.

b. Adequate parking shall be provided for employees and customers, to the satisfaction of the planning commission.

c. Such other requirements which, in the opinion of the planning commission, are necessary to [ensure] compatibility of the use with surrounding uses and the intent of the B-1 district.

(10) Bed and breakfast homes, subject to section 2114.

(11) Short-term rental in accordance with the Rochester Rental Property Ordinance - Chapter 12 of the Rochester City Code and only to the extent residential uses are otherwise permitted.

(Ord. No. 2009-13, 5-11-2009; Ord. No. 2009-22, pt. 3, 11-9-2009; Ord. No. 2024-02, § 2, 7-8-2024)

ARTICLE 14. O-1, LIMITED OFFICE DISTRICT

Sec. 1400. Intent.

(a) This district is intended for areas which are deemed appropriate for medical and service office uses, in addition to other general and professional office uses, while requiring standards intended to minimize adverse environmental impact upon adjoining or nearby residential districts and uses. Other regulations of this ordinance are intended to supplement the district regulations, including, but not limited to: site plan approval; off-street parking; screen walls; signs. This district is intended for sites that do not generally abut residential districts so that the more intensive uses will not have an adverse impact on the city's neighborhoods.

Sec. 1401. Permitted principal uses.

[The following principal uses shall be allowed in the O-1, Limited Office District:]

(1) Offices for executive, administrative, or business operations.

(2) Professional offices of an architect, engineer, attorney, public accountant, or similar profession.

(3) Medical and dental offices and outpatient clinics, but not including facilities for a veterinarian or any facility with beds for overnight accommodations.

(4) Service office uses, such as, but not limited to, real estate, branch bank, savings and loan, credit union, mortgage or loan company office, utility company office, and similar uses.

(5) Office uses which, in the opinion of the planning commission, are similar to the above permitted principal uses.

(6) One-family detached dwellings subject to the regulations of the R-1 District.

(7) Two-family dwellings subject to the regulations of the RT District.

Sec. 1402. Required conditions for principal uses.

The following are prohibited:

(1) Outdoor storage of goods or materials;

(2) Warehousing or indoor storage of goods or materials beyond that normally incidental to the permitted principal uses;

(3) Display of goods or merchandise which is visible from the exterior of the building;

(4) Sale of goods or merchandise except where strictly incidental and accessory to the permitted principal use; parking decks and/or parking structures.

Sec. 1403. Permitted accessory uses.

[The following accessory uses shall be allowed in the O-1, Limited Office District:]

(1) Any use customarily incidental to a permitted principal use.

(2) Off-street parking of employee and customer private motor vehicles shall not be allowed between the principal building and all front street lot lines, which areas shall be designed, landscaped and properly maintained with appropriate plant materials according to an approved landscape plan.

Sec. 1404. Conditional uses.

(a) The following conditional uses may be permitted by the planning commission after a finding that the use is appropriate at the intended location; its design and arrangement will be compatible with nearby residential uses; and the impact of the proposed use will be no greater than that of the principal permitted uses in the O-1 Districts.

(1) Churches and other houses of worship.

(2) Funeral home.

(3) Meeting hall or lodge hall.

(4) Indoor racquet sports and fitness centers and clubs.

(5) Bed and breakfast homes, subject to section 2114.

(6) Upper story apartments, subject to section 2111.

(7) Short-term rental in accordance with the Rochester Rental Property Ordinance - Chapter 12 of the Rochester City Code and only to the extent residential uses are otherwise permitted.

(b) See the schedule of district regulations for setback, area, bulk, height and placement regulations (article 20).

(Ord. No. 2024-02, § 3, 7-8-2024)

ARTICLE 15. O-2, RESTRICTED OFFICE DISTRICT

Sec. 1500. Intent.

(a) This district is intended to accommodate general and professional offices uses which generate low-intensity vehicular traffic patterns, primarily related to the office employees. The district is not suitable for office uses which generate large volumes of customer traffic in addition to the normal employee traffic. While O-2 districts are generally located on major thoroughfares, they are usually adjacent or near to residential districts. In addition to the regulations of this district, other regulations of this ordinance are intended to control the effect of uses in the O-2 districts upon nearby residential districts and uses. These other regulations include, but are not limited to: site plan approval; off-street parking; screen walls; and signs.

Sec. 1501. Permitted principal uses.

[The following principal uses shall be allowed in the O-2, Restricted Office District:]

(1) Office for executive, administrative, or business operations.

(2) Professional offices of an architect, engineer, attorney, public accountant, or similar profession.

(3) Office uses which, in the opinion of the planning commission, are similar to the above permitted principal uses.

(4) One-family detached dwellings subject to the regulations of the R-1 District.

(5) Two-family dwellings subject to the regulations of the RT District.

Sec. 1502. Required conditions for principal uses.

(a) The following are prohibited: outdoor storage of goods or materials, warehousing or indoor storage of goods or materials beyond that normally incidental to the permitted principal uses; display of goods or merchandise which is visible from the exterior of the building; sale of goods or merchandise except where strictly incidental and accessory to the permitted principal use; parking decks and/or parking structures.

Sec. 1503. Permitted accessory uses.

[The following accessory uses shall be allowed in the O-2, Restricted Office District:]

(1) Any use customarily incidental to a permitted principal use.

(2) Off-street parking of employee and customer private motor vehicles shall not be allowed between the principal building and all front street lot lines, which areas shall be designed, landscaped and properly maintained with appropriate plant materials according to an approved landscape plan.

Sec. 1504. Conditional uses.

(a) The following conditional uses may be permitted by the planning commission after a finding that the use is appropriate at the intended location; its design and arrangement will be compatible with nearby residential uses; and the impact of the proposed use will be no greater than that of the principal permitted uses in the O-2 Districts.

(1) Churches and other houses of worship.

(2) Branch office of a bank, savings and loan, credit union, or similar financial services institution.

(3) Uses, which, in the opinion of the planning commission, are similar to the above conditional uses.

(4) Bed and breakfast homes, subject to section 2114.

(5) Upper story apartments, subject to section 2111.

(6) Short-term rental in accordance with the Rochester Rental Property Ordinance - Chapter 12 of the Rochester City Code and only to the extent residential uses are otherwise permitted.

(b) See the schedule [of] district regulations for setback, area, bulk, height and placement regulations (article 20).

(Ord. No. 2024-02, § 4, 7-8-2024)

ARTICLE 16. RP, RESEARCH PARK DISTRICT

Sec. 1600. Intent.

(a) The RP district is intended to accommodate uses such as research, testing, manufacturing, packaging or technologically related activities which are a component of the overall business activities. These uses are envisioned to be located and designed as either a comprehensive campus setting or smaller in scale on an individual parcel. The district is spread out over different areas in the City which include existing large-scale research and manufacturing facilities and also areas abutting the Clinton River. The district envisions developments that take advantage of the unique natural settings they are located in or that will allow for non-residential uses developed in harmony with preservation and enhancement of natural features.

Sec. 1601. Permitted principal uses.

(1) Research, testing, product development, manufacturing, packaging, and warehousing of pharmaceutical - prescription and nonprescription where warehousing is supplemental to a principal use; veterinary, diagnostics, hospital and biological products and related dispensing containers; scientific instruments, medical devices and other uses and activities related thereto, including raising and maintenance of animals.

(2) Technical and occupational training schools and institutions of higher learning.

(3) Offices; banks, credit unions, savings and loan associations, not including drive-in facilities~~,~~ clinics, hospitals, veterinary hospitals, public or non-profit recreation uses such as parks, playgrounds, golf courses, athletic fields, swimming pools, and community centers.

(4) Municipal buildings and uses owned by the City of Rochester.

(5) Technology-oriented companies, offices and other computing related centers.

(6) Offices of manufacturing agents, sales representatives, and others requiring display areas and/or a limited warehousing area supplemental to the principal use.

(7) Printing shops and other establishments which complete manufacture of a finished product and where all activities are completely contained within a fully enclosed structure.

Sec. 1602. - Permitted accessory uses.

(1) Accessory structures and uses customarily incidental to a permitted principal use.

Sec. 1603. Conditional uses.

(1) Commercial recreation facilities such as tennis club or racquetball club.

(2) Radio and television studios and associated transmitting towers and facilities; microwave towers.

(3) See section 2108 on public utilities and facilities.

(4) Oil and gas wells in accordance with the criteria set forth in section 2130.

(5) Banks, credit unions, or savings and loan associations which include drive-in facilities related thereto;

(6) Funeral home, meeting hall, house of worship and other places of assembly;

(7) A business establishment permissible in the B-1 General District found to be of significant convenience to the employees and firms in the RP Research Technology District for example, restaurant, filling station, or credit union;

(8) Other uses deemed similar to the uses permissible in the district, subject to Planning Commission determination on such suitability of such uses to the intent of the district.

Sec. 1604. Development standards.

The required minimum useable floor area, minimum required setback dimensions, maximum building height, minimum area, and lot size for the RP Research Park District shall be as set forth in this section.

(1) *Lot Area.* Minimum required lot area shall be 40,000 square feet.

(2) *Lot Width.* Minimum required lot width shall be 200 feet.

(3) There is no maximum building coverage in the RP district.

(4) *Building height.* Maximum height of buildings shall not exceed 45 feet or four stories for properties with a lot line abutting the South Street right-of-way. Maximum height of buildings for all other lots zoned RP shall not exceed 30 feet or two and one-half (2 ½) stories.

(5) *Front yard.* Buildings shall be setback at a minimum of 50 feet from the front lot line.

(6) *Side yard.* Buildings shall be setback a minimum of 20 feet from any side lot line. The minimum required side yard setback for a corner lot with a side street shall be 50 feet.

(7) *Rear yard.* Minimum required setback shall be 20 feet.

(8) *Parking.* Parking may be accommodated on-site or integrated into the building design. Required greenbelts and landscaping as identified Article 28 shall be provided.

ARTICLE 17. LI - LIGHT INDUSTRIAL DISTRICT

Sec. 1700. Intent.

(a) The City has a limited number of industrial uses due to the limited amount of land and size of parcels available to reasonably accommodate such uses. Light industrial uses are typically located on the southeast side of the City. The area is characterized by assorted industrial and high intensity commercial uses. The area is envisioned as the only industrial district within the City. This district is intended to accommodate industrial, warehousing, and related operations which, by virtue of their operational characteristics, are reasonably compatible with nearby residential districts and within a densely populated community. The district is also intended for heavy commercial uses which are typically characterized by outdoor storage or garage components which may occupy an area larger than the customer component. Uses which would be adversely affected by location in an industrial area, such as residential dwellings, are prohibited.

Sec. 1701. Permitted principal uses.

Any of the following uses, when conducted wholly within a completely enclosed building or within a designated area enclosed on all sides by a six-foot fence or solid wall shall be allowed in the LI, Light Industrial

District. Said fence or wall shall be completely obscuring on those sides abutting or adjacent to districts zoned for residential use.

(1) Warehouse, storage and transfer, and wholesale establishments, and trucking facilities. Storage facilities for building materials, sand, gravel, stone, lumber, contractor's equipment and supplies.

(2) Public utility buildings and yards, electric transformer stations and substations, and gas regulator stations. Water supply and sewage disposal plants, water and gas tank holders. Railroad transfer and storage tanks, railroad rights-of-way and related uses. Heating and electrical power generating plants, and all similar uses. .

(3) The manufacture, compounding, processing, packaging, or treatment of such products as, but not limited to: bakery goods, candy, cosmetics, pharmaceutical, toiletries, food products, hardware and cutlery; tools, die, gauge, and machine shops.

(4) The manufacture, compounding, assembling, or treatment of articles or merchandise from previously prepared materials, such as, but not limited to bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones. Sheet metal (excluding any operation involving metal plating, buffing, polishing and-or stamping), shell, textiles, tobacco, wax, wire, wood (excluding saw and planing mills), and yarns.

(5) The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.

(6) Manufacture of musical instruments, toys, novelties, metal or rubber stamps, or other small molded rubber products

(7) Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs

(8) Laboratories, either experimental, film or testing.

(9) Manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves, and the like.

(10) Veterinary hospitals.

(11) Car wash, service garage, bump and paint shop, tire sales, muffler and brake shops, quick oil and lube centers, and similar operations.

Sec. 1702. Permitted accessory uses.

(1) Accessory structures and uses customarily incidental to a permitted principal use.

Sec. 1703. Conditional uses.

(1) A business establishment permissible in the B-1 General District found to be of significant convenience to the employees and firms in the LI, Light Industrial District, for example, restaurant, filling station, or credit union.

(2) An industrial use similar in operational and performance characteristics to a permitted principal use in this district.

(3) Lumber and planning mill, metal plating, buffing and polishing or stamping, and similar uses.

(4) See section 2108 on public utilities and facilities.

(5) Indoor commercial recreation uses that are typically housed in a large structure, such as: indoor soccer, golf domes, skate parks, ice skating arenas, swimming facilities.

(6) Oil and gas wells in accordance with the criteria set forth in section 2130.

(7) Pet grooming, pet exercise and care facilities, subject to the following conditions:

a. All outdoor pet exercise areas must be fenced and screened with landscaping as deemed appropriate by the Planning Commission.

b. Pets shall be supervised when outdoors.

c. Use shall comply with City's noise ordinance.

d. No overnight accommodation shall be provided for animals.

e. Parking shall be provided in accordance with ITE standards for the use classification.

(8) Limited retail uses may be allowed, but only as an accessory use clearly incidental and subordinate to a permitted principal use on the property, and subject to the following:

a. The retail space is limited to 25% of the gross square footage of the building if a single tenant building, and not more than 25% of the gross square footage of each tenant's space in a multiple tenant building. In addition, the retail space shall not exceed 1500 sq ft of any building. The retail space limit is inclusive of all showroom, displays and sales areas.

b. No business shall operate retail use as a standalone or primary use, but only ancillary to the otherwise permitted principal use. The retail use must directly support or relate to the principal use. In the case of non-profits, the retail use may be used to generate funds to support the primary mission of the organization. For the purposes of this section, 'retail use' includes the on-site sale of goods or merchandise to the general public.

c. Limited retail use shall only be allowed under this Section for industrial-zoned properties located on South Street, and not in other industrial areas in the City.

d. Required off-street parking for the approved limited retail area shall be calculated at the same rate as the principal use for the business on the property. While additional parking spaces are not required at the retail use rate, there will be no grandfathering of additional spaces as a result of the approved limited retail uses.

e. Prior to any limited retail use being allowed, the parking areas must be brought into compliance with off-street parking requirements including, but not limited to, striping, condition, provision and designation of handicap spaces, and other accessibility requirements.

Sec. 1704. - Development standards.

The required minimum useable floor area, minimum required setback dimensions, maximum building height, minimum area, and lot size for the LI, Light Industrial District shall be as set forth in this section.

(1) *Lot Area.* Minimum required lot area shall be 10,000 square feet.

(2) *Lot Width.* Minimum required lot width shall be 80 feet.

(3) There is no maximum building coverage in the LI district.

(4) *Building height.* Maximum height of buildings shall not exceed 35 feet or three (3) stories.

(5) *Front yard.* Buildings shall be setback at a minimum of 25 feet from the front lot line.

(6) *Side yard.* Buildings shall be setback a minimum of 15 feet from any side lot line. The minimum required side yard setback for a corner lot with a side street shall be 25 feet.

(7) *Rear yard.* Minimum required setback shall be 40 feet.

(8) *Parking.* Parking must be accommodated on-site and should be predominantly located within the side and rear yard.

ARTICLE 19. RV, RIVER VALLEY DISTRICT AND POS, PARKS AND OPEN SPACE DISTRICT

Sec. 1900. River Valley District statement of purpose.

(a) All land lying within the floodplains of Paint Creek, Stony Creek, and the Clinton River is within the RV, River Valley District, and is subject to the regulations of this district, in addition to the regulations otherwise established for a district designated by the zoning map. Those floodplains are designated by the report [entitled] Flood Insurance Study, City of Rochester, Michigan, dated March, 1982, published by the Federal Emergency Management Agency, a copy of which shall be maintained on file for public inspection by the building inspector. The base flood level is defined as the 100-year flood. In establishing the precise location of a flood line on a particular lot, the building inspector shall consider survey data certified by a registered civil engineer or a registered land surveyor, and other pertinent data.

(Ord. No. 2010-02, § 1900, 1-11-2010)

Sec. 1901. River Valley District regulations.

(a) The following three areas as identified by the flood boundary and floodway map shall be subject to the following requirements in addition to those regulations established for the applicable zoning district and all applicable state and federal regulations.

Area	*Regulations*
Floodway	1, 2, 5
100-year flood	1, 2
500-year flood	2, 3, 4

(1) No building, mobile home, or trailer shall be erected or placed in the area.

(2) No existing building shall be enlarged, or improved at a cost over 50 percent of its present value, except in accordance with specifications of the building inspector to minimize flooding hazards insofar as practical and reasonable. At a minimum, these specifications shall comply with federal flood insurance regulations as cited in 24 CFR 60.3(d).

(3) No residential building shall be erected or placed unless the lowest floor level (including basement if any) is above the base flood level. Accessory buildings not intended for habitation, such as garages, are excluded from this regulation.

(4) No nonresidential building shall be erected unless the lowest floor (including basement, if any) is above the base flood level, or is floodproofed to above the base flood level. Accessory buildings not intended for habitation, such as storage buildings, are excluded from this regulation.

(5) None of the following are permitted except as approved by the city engineer so that the base level will not increase at any point in the city, taking into account the cumulative effect of all such increases since January 1, 1980: Structures, filling, dumping with any material.

(Ord. No. 2010-02, § 1901, 1-11-2010)

Sec. 1902. Parks and Open Space District statement of purpose.

(a) The purpose of the POS Parks and Open Space District is to identify and preserve city-owned parks, preserve land with valuable environmental qualities as open space, conserve natural and cultural areas and resources, to ensure the continued health, safety and welfare of the community, by providing locations for recreational

activities consistent with the city's adopted master plan and parks and recreation plan. The district recognizes and protects parks for recreational use and related facilities, as well as properties suitable for preservation as open space.

(b) The size, character and intensity of development of park, recreation and open space areas and the performance characteristics of recreation areas shall be commensurate with the capability of land and water areas to support the intended uses.

(Ord. No. 2010-02, § 1902, 1-11-2010)

Sec. 1903. Parks and Open Space District permitted principal uses.

The following [principal] uses [shall be] permitted in the POS District:

(1) Day-use parks, sports fields, playgrounds, public pools and similar active, outdoor recreation uses without overnight accommodations.

(2) Picnic areas, nature study areas, nature centers, hiking/biking trails, community centers and similar passive recreation uses.

(3) Educational facilities such as: zoological gardens, botanical gardens, bird sanctuaries, arboretums, and the like.

(4) Historical and cultural facilities and resources, museums, and similar uses.

(5) Wildlife preserves.

(6) Temporary or seasonal outdoor storage, permanent indoor storage, and public safety training uses of the City of Rochester, but excluding construction staging activities, equipment and uses.

(7) Other uses which, in the opinion of the planning commission after findings of fact, are similar to the above permitted principal uses and will be equally compatible with nearby uses and residential areas.

(Ord. No. 2010-02, § 1903, 1-11-2010)

Sec. 1904. Parks and Open Space District permitted accessory uses.

[The following accessory uses shall be allowed in the POS District:]

(1) Accessory buildings and uses customarily incidental to the principal permitted uses, when located on the same premises in conformance with section 2102.

(2) Signs in accordance with article 22. Signs proposed for a public park or use shall be subject to the standards in section 2209.

(Ord. No. 2010-02, § 1904, 1-11-2010)

Sec. 1905. Parks and Open Space District conditional uses.

The following uses may be permitted by the planning commission, subject to a public hearing being held to provide for comment from neighboring property owners and occupants.

(1) Wireless communication antennas (section 2106).

(2) Local utility structures (section 2108).

(Ord. No. 2010-02, § 1905, 1-11-2010)

ARTICLE 20. SETBACK, AREA, BULK, HEIGHT AND PLACEMENT REGULATION

Sec. 2000. Schedule of district regulations.

(a) The area, height, bulk, and placement requirements for principal and accessory uses shall be as set forth below and following this schedule:

District	*Maximum Percent of Lot Coverage by all Buildings*	*Minimum Yard Setback From Lot Lines (in feet)*				*Maximum Building Height*		*Minimum Lot Size*	
		Front Yard	*Side Yards*		*Rear Yard*				
			Least One	*Total of Two*		*In Feet*	*In Stories*	*Area (in Square Feet)*	*Width (in feet)*
R-1	30	25	5	15	35	25	2½	6,000	50
R-2	30	25	5	15	35	25	2½	7,200	60
R-3	30	25	5	15	35	25	2½	8,400	70
R-4	25	25	10	30	35	25	2½	9,600	80
R-5	25	25	10	30	35	25	2½	15,000	100
RT	30	25	5	15	35	35	2½	3,200	54
RM-1	30	25	20 Street 25	40 Street 45	35	30	2½	1 BR: 2,250 2 BR: 3,000 3 BR: 3,750	50
RM-2	60	10 Min. 25 Max.	15 Street 10 Min. Street 25 Max.	30 Street 25 Street 40	25	80	6	1 BR: 2,500 2 BR: 3,000 3 BR: 3,500	50
O-1*	--	25	5	20	30	35	2½	___	___
O-2*	--	25	10	20	30	35	2½	___	___
CBD	--	[1]	10	35	3	35	___		
DE-1	See Section 1104.A								
DE-2	See Section 1104.B								
T	See Section 1104.C								
MU	See Section 1104.D								
MU-1	See Section 1104.E								
B-1	--	See following notes	10	35	3	___	___		
RP	--	50	20	40	50	50		40,000	200
RP	See following notes								

LI	--	25	15	40	20	50		10,000	80

*Minimum setback from residential district: 30 feet in O-1, 20 feet in O-2.

**Except west side of Walnut Boulevard to the east right-of-way line of Pine Street, with an extension of said east right-of-way line of Pine Street, southerly from Second Street to First Street (properties currently zoned CBD, Central Business District). Reduced to 25 feet and two stories. See section 2010.

(Ord. No. 2005-08, 8-22-2005)

Sec. 2001. R-3, R-4.

(a) The minimum lot width indicated in the schedule may be further reduced to 65 feet in the R-3 District and to 70 feet in the R-4 District, provided that the average lot width of all the lots in the subdivision is 70 feet in the R-3 District and 80 feet in the R-4 District. This provision is only applicable where approved by the city as part of approving a preliminary plat that is consummated in a recorded final plat covering all the lots so averaged. See planned residential development provisions of article 25 regarding lot sizes.

Sec. 2002. RM-1, RM-2.

(a) In computing the bedroom (abbreviated BR) count of a dwelling unit, a "den," "library," or "family room" or similar extra room shall be counted as a bedroom.

(b) The minimum distance between buildings on the lot shall be subject to site plan approval; see article 27.

Sec. 2003. RM-2.

(a) No building of two stories or less shall contain more than 16 dwelling units.

(b) No part of a dwelling unit shall be below grade unless approved as part of the site plan by the city planning commission, their approval to be based on consideration of sloping topography affording unique design opportunities for amenities.

(c)

(d) Any building of more than two stories shall be of fireproof construction, such as masonry and steel, reinforced concrete, or similar fireproof rated materials.

Sec. 2004. CBD, B-1.

(a) No side yards are required along interior lot lines, provided all requirements of the building code have been met with regard to fire protection and separation, adequate light, and adequate ventilation.

(b) Mechanical equipment, such as heating/ventilation/air conditioning, for buildings in B-1 and CBD districts shall be provided with visual and acoustical screening by means of principal building features or components, such as roof structural members, parapet walls, and the like. These principal building features shall obscure at least 75 percent of the height of the equipment being screened but not less than five feet. The use of wood, metal, or similar screen fences to obscure mechanical equipment shall not be permitted. The building wall or parapet wall for a structure with a flat roof may be permitted to a maximum height of 40 feet in order to provide the required screening for mechanical equipment. Buildings with a pitched roof may not increase building height.

Sec. 2005. B-1.

(a) The minimum front yard setback shall be 15 feet, and the minimum side yard setback shall be ten feet, provided however that the city planning commission may in its discretion as part of site plan review and approval pursuant to article 27 of this ordinance approve lesser or no front and/or side yard setbacks, taking into consideration subsections (d)(1) through (3) of this section.

(b) That portion of the front yard between the building and the front lot line shall not be used for vehicle parking and shall be mainly devoted to landscaped open space and pedestrian access.

(c) The established pattern of front setbacks on the same block and the same side of the street. The planning commission shall be guided by the intent that the required front yard setback should not result in poor visibility of the building from the street caused by the setbacks of existing buildings on adjoining lots. Similarly, the approved front yard setback for the subject building shall take into consideration the effect of the subject building on the visibility of adjoining buildings. In furtherance of this intent, the planning commission may, as the circumstances warrant, approve:

  (1) Transitional setback as illustrated in Diagram A below;

  (2) A plaza as illustrated in Diagram B below in the case where adjoining buildings have little or no front yard setback.

(d) B-1 setback examples.

B-1 SETBACK EXAMPLES

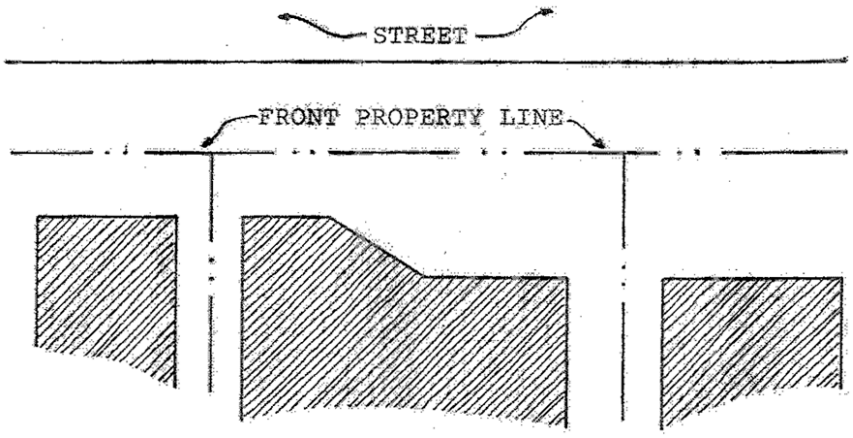


DIAGRAM A - TRANSITIONAL SETBACK

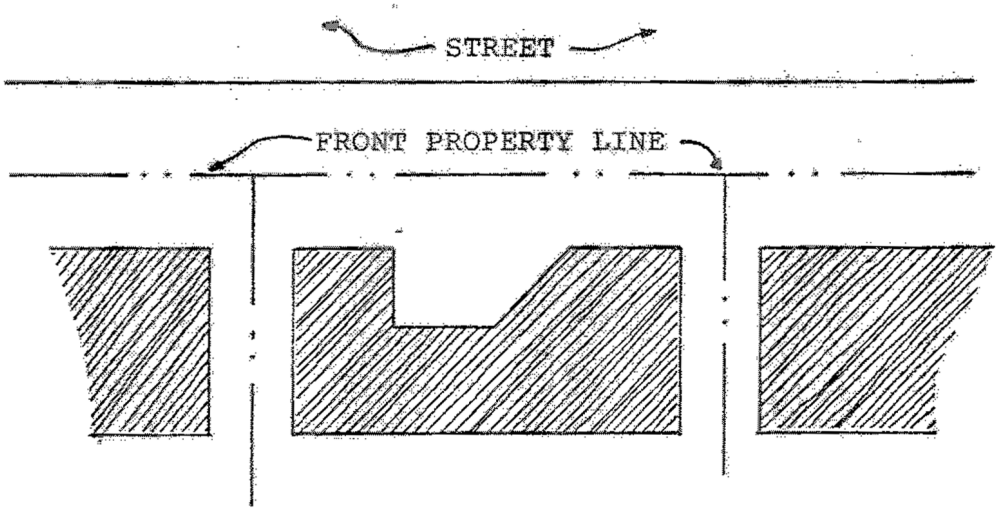


DIAGRAM B - PLAZA SETBACK

(1) In establishing the front yard setback for a building in close proximity to existing buildings, the planning commission shall be guided by the design principal that a transitional setback or plaza as described in subsections (c)(1) and (2) of this section may be more appropriate to and compatible with the established pattern of setbacks than would be a setback of the subject building abruptly different from setbacks of existing buildings.

(2) Provision for accessibility by service and other vehicles. The planning commission shall be guided by the intent of discouraging reliance upon public streets for loading and delivery activities, and encouraging such activities to be accommodated via service drives and alleys, with adequate truck loading space provided on the lot. On a small lot, the planning commission might accordingly find that the intent would be better served by reducing side yard requirements if the enhanced building site thereby facilitates provision of adequate truck loading at the rear of the building. Similarly, the reduction and consolidation of the number of driveways and parking areas might justify the reduction of side yards. Side yard reduction shall be consistent with fire fighting and other public safety considerations: narrow and deep side yards are generally undesirable.

(3) Adequacy of side yard setback in relation to windows and doors of the subject and adjoining buildings. The planning commission shall take into consideration the effect of side yards on daylight, ventilation, and egress in relation to windows and doors of the subject and adjoining buildings; distances between buildings of less than eight feet are generally not desirable and a better building relationship in some circumstances might be achieved by no side yard setback.

Sec. 2006. RP.

(a) No building shall be closer to a Residential District than four times the building's roof height elevation over the Residential District boundary average elevation, but not less than 50 feet. For example, if the Residential District boundary average elevation is 730, the ground elevation of the building is 710, and the building roof is 810, the building would be 80 feet above the Residential District boundary, and would therefore be required to be 320 feet from the Residential District. The average elevation of the Residential District boundary shall be determined by the city for the sector of the boundary faced by the building, plus 50 feet beyond, along the boundary.

(b) The maximum height of a building may be increased from 50 up to 125 feet provided that no building shall be closer to a property line of land under other ownership (excluding public right-of-way and railroad right-of-way) than the building's roof elevation over the average elevation of the property line, determined in the

same manner as in the previous paragraph; the building shall be set back from any Residential District boundary as set forth in the previous paragraph.

Sec. 2007. Minimum lot size.

(a) Any other provisions of this ordinance notwithstanding, the minimum lot size of any lot in any district not served by public water supply and public sanitary sewer shall be established by the city engineer based on engineering requirements for safe and adequate water supply and sewage disposal, but in any event not less than:

(1) RP District: 40,000 square feet lot area and 200 feet lot width.

(2) All other districts: 20,000 square feet lot area 100 feet lot width.

(b) The provisions of this section do not waive any provision of chapter 54 of the City Code, including section 54-236 thereof on discontinuance of a private sewage disposal system when a public sewer becomes available.

Sec. 2008. All districts.

(a) Screen walls shall be constructed in accordance with article 28 before a certificate of occupancy is issued for a nonresidential use.

Sec. 2009. Parking in all districts.

(a) The design, construction and operation of off-street parking shall be in accordance with article 24.

(Ord. No. 2005-08, 8-22-2005)

ARTICLE 21. SUPPLEMENTARY DISTRICT REGULATIONS

Sec. 2100. Visibility at intersections and corner clearance.

(a) On corner lots in all districts, nothing shall be erected, placed, or allowed to grow in such a manner that it impedes vision between a height of 30 inches and ten feet in an area bounded by the street lines of such corner lots and a line joining points along said street lines 25 feet from the point of intersection.

(b) Minimum sight distance for commercial, industrial, institutional, public road, and private road approaches onto city streets and county roads shall be in accordance with the American Association of State Highway and Transportation Officials' (AASHTO) standards for both vertical and horizontal alignment. Where AASHTO standards cannot be met, an alternative plan shall be developed in consultation with the city engineer and approved by the city council.

Unless otherwise specified by the city engineer, sight distance shall be measured 50 feet from the centerline of an existing city or county road. For intersection sight distance, the eye height shall be assumed to be 3.5 feet above road grade and the object height shall be 4.25 feet and shall be continuously visible within the specified limits.

Sec. 2101. Walls and hedges.

(a) In the front ten feet of any required front yard in a residential district, no wall shall be permitted which materially impedes vision across such yard above the height of 30 inches, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights of 30 inches and five feet.

Sec. 2102. Accessory buildings.

(a) *Location—Single-family residential.* A building which is accessory to a single-family dwelling and which is not attached thereto shall not be located:

(1) In the front yard or between the front building line of the principal building and the front lot line;

(2) In any required side yard;

(3) If on a corner lot, closer to the side street than the width of the side yard required for the principal building on such side street;

(4) Closer than three feet to any rear lot line;

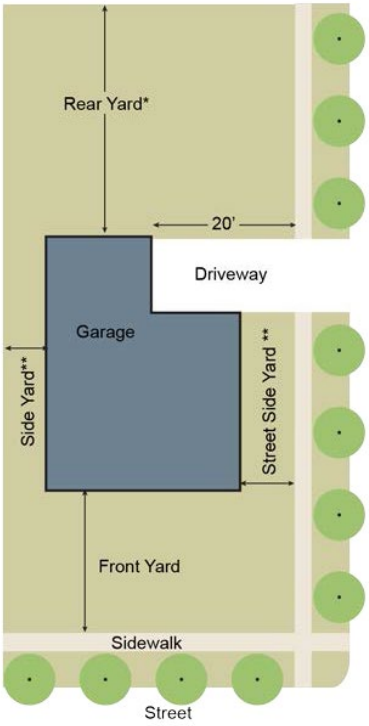
(5) So that there is less than 20 feet in length of driveway between a garage or carport entrance and the street right-of-way providing access thereto;

Figure 1:
Corner Lot - Detached Garage



* Rear Yard 3' min
** Side yard 5' min / 15' combined

Figure 2:
Corner Lot - Attached Garage



* Rear Yard 35' min
** Side yard 5' min / 15' combined

(6) In an R-4 or R-5 district:

a. Closer to a side lot line than is allowed for a principal building;

b. Closer than 20 feet to a principal building unless the accessory building has masonry walls, in which case it shall be located no closer than ten feet to a principal building.

Figure 3:
Corner Lot - Detached Garage

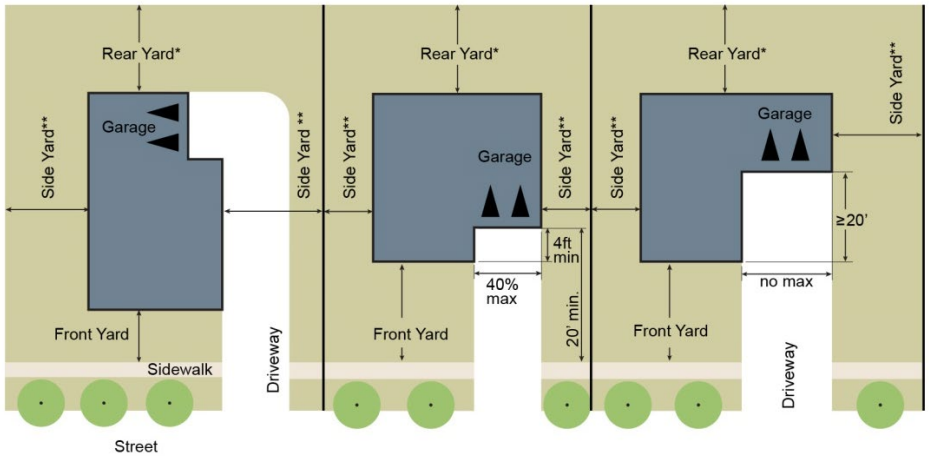


* Rear Yard 3' min
** Side yard 10' min / 30' combined

(7) All detached accessory structures, regardless of size, shall comply with detached accessory building setback requirements of this section. The following information and documents are required as the site plan submittal. The planning commission is authorized to reduce the information required in cases where it finds such information unnecessary or inappropriate for consideration of the particular application.

(b) *Same—Attached to dwelling.* A building which is accessory to a single-family dwelling and attached thereto (such as attached garage or greenhouse) shall for purposes of location and setbacks be considered part of the principal building. Front entry garage doors shall be set back a minimum of four feet from the front wall of the principal dwelling, and may not comprise more than 40 percent of the width of any building façade that faces a street. Front entry garages may occupy a wider width when placed at or more than 20 feet behind the front wall of the principal dwelling. Side entry garages shall not be permitted in the front yard of parcels located in the R-1 and R-2 single family residential districts. There shall be at least 20 feet length of driveway apron between a garage or carport entrance and the street right-of-way providing access thereto. A detached garage may be connected to the principal residence by means of a covered walkway, enclosed walkway, or enclosed breezeway provided the covered walkway, enclosed walkway, or enclosed breezeway complies with all setback requirements enumerated in subsection (a) of this section for the principal residence.

Figure 4:
Attached Garage



* Rear Yard 3' min
** Side yard varies

(c) *Same—Uses other than single-family residential.* The location of a building which is accessory to a principal building or use other than a single-family residential building (such as multifamily dwelling, commercial building, industrial building, or office building) shall be determined by the site plan which is approved by the city in accordance with the provisions of this ordinance.

(d) *Building height.* The maximum building height of an accessory building in a One-Family Residential District shall be 13 feet. However, for every additional 20 feet of rear and side yard setback, the height of the accessory building can be increased by two feet. In no instance shall the height exceed 24 feet.

(e) *Floor area/lot coverage.* In a One-Family Residential District the total coverage of all accessory buildings on a lot shall not exceed: ten percent of the lot's area; nor 25 percent of the rear yard; nor the ground coverage of the principal building. The total coverage by all accessory and principal buildings on a lot is set forth in the schedule of district regulations (article 20 of the zoning ordinance). Total lot coverage shall include the following:

(1) There shall be not more than two detached accessory structures on any single-family homesite. All detached accessory structures over 100 square feet shall be included in total lot coverage.

(2) Covered and/or enclosed walkways shall be included in total lot coverage.

(3) Raised patios having 50 percent of their perimeter in excess of 30 inches above the average grade, as determined by the building inspector, shall be included in total lot coverage.

(4) In-ground swimming pools with a walking surface in excess of 30 inches above grade for 50 percent or more of the combined perimeter shall be included in total lot coverage. Diving platforms are excepted.

(5) Above-ground swimming pools with a sidewalk height of five feet or more for 50 percent or more of their perimeter shall be included in total lot coverage.

(6) Any structure or area, including but not limited to a deck, porch, or patio with a permanent roof (regardless of size) attached to the principal residence shall be included in total lot coverage.

(f) *Other accessory use regulations.*

(1) No accessory building shall be constructed prior to the commencement of construction of its principal building.

(2) In a residential district, the following are prohibited: storage of merchandise, and sale, repair, or service of motor vehicles. The parking of not more than two commercial vehicles within a garage is allowed.

(3) Raised patios greater than 30 inches above the average grade shall not project into any required front or side yard and may project not more than 16 feet into a required rear yard.

(4) In-ground swimming pools greater than 30 inches above the average grade and/or attached to or serviced by a raised patio shall not project into any required front or side yard and may project not more than 16 feet into a required rear yard.

(5) Above-ground pools, regardless of height, attached to or serviced by a raised patio shall not project into any required front or side yard and may project not more than 16 feet into a required rear yard.

(6) Heating elements are permitted for accessory buildings provided they meet all applicable building codes and manufacturers' specifications. Except for "plug-in" electric heaters, heating elements and ventilation systems shall be approved by the city building official before and after installation. Wood burning stoves, fireplaces and other elements with non-contained, non-furnace flames are prohibited. However, nothing in this section shall be deemed to prohibit a properly contained U.L. listed furnace device. Before any heating elements are utilized in accessory buildings, smoke detectors shall be installed and approved by the city building inspector. The use of heating elements shall not be in violation of any city, Michigan, federal regulations or manufacturers' specifications in any manner including, but not limited to, regulations restricting odor, emissions and discharging of particulate matter, as those regulations may be changed from time to time.

(7) No accessory building shall be designed, built, or modified so as to create a separate, independent housekeeping establishment for occupancy (for example: containing independent cooking, bathroom, and sleeping facilities) nor shall such building be utilized as a habitable or tenantable living unit.

(g) *Average grade.* Average grade, as referenced within this section, shall be determined by the building inspector based upon measurement of the existing grades at the perimeter of the proposed structure, patio, or pool.

(Ord. No. 2004-11, 9-13-2004; Ord. No. 2014-04, 3-24-2014;Ord. No. 2015-17, 10-12-2015; Ord. No. 2017-06, pt. II, 6-12-2017; Ord. No. 2019-13, pt. I, 7-22-2019; Ord. No. 2023-01, § 1, 1-23-2023)

Sec. 2103. Swimming pool.

(a) For purposes of this ordinance, a "swimming pool" is any manmade pool, whether or not portable, having a depth of two feet or more at any point, and having a surface area of 250 square feet or more. A "private" swimming pool is one that is not open to the public and is not owned publicly. As an accessory use in a residential district, no swimming pool shall be located closer than ten feet to any side or rear lot line, or in a required front yard.

Sec. 2104. Erection of more than one principal structure on a lot.

(a) In a One-Family Residential District, there shall not be more than one residential dwelling on a recorded lot. In these districts, every residential dwelling shall be on a recorded lot, except that in the case of a farm of more than ten acres, there may be a tenant dwelling on the same recorded lot as the principal dwelling, provided that a lot is designated in the application for a zoning compliance permit and approved in accordance with article 29 of this ordinance.

Sec. 2105. Exceptions to height regulations.

(a) The height limitations contained in the schedule of district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

Sec. 2106. Radio, television, satellite dish and communications antennas and towers.

(a) No guy wires or other accessories associated with any antenna or tower shall cross, encroach, or otherwise project beyond any lot line or over any electric power lines.

(b) In a residential district, no antenna shall be located between the principal building and the front lot line. The maximum overall height for a ground-mounted antenna, including mounting hardware, shall be 15 feet. The maximum diameter for satellite dish antennas shall be three feet. Roof-mounted satellite dishes shall not exceed the height limit of the zoning district. Roof-mounted satellite dish antennas shall be located on the rear yard side of a building's roof, so as not to be visible from the front lot line. Ground-mounted satellite dishes shall be set back the installed height of the antenna from all lot lines and no satellite dish shall overhang any lot line. All satellite dishes shall be mounted at least 12 feet from any electric wires. If it is not possible for the satellite dish to be located as required, the property owner may seek a variance from the zoning board of appeals.

(c) In a nonresidential zone, no satellite dish antenna shall be located between any principal building and the front lot line. All satellite dish antennas over 12 feet in diameter and all ground-mounted satellite dishes over 15 feet in overall height shall require conditional use approval by the planning commission. Roof-mounted satellite dishes shall not exceed the zoning district height limit. Where placement of the satellite dish will cause it to be visible from a residential district or a public right-of-way, it shall be screened from view. The screening may consist of structures, plant materials, earth berms and/or fences. At least 75 percent of the antenna, to a height of six feet above the average ground elevation, must be screened from view of the abutting lot or right-of-way.

(d) Wireless communications towers and antennas. Wireless communications towers and antennas shall be permitted as conditional uses in the B-1 General Business districts, CBD Central Business districts, RP Research Technology and LI Light Industrial districts and upon any publicly owned land within the boundaries of the city. All wireless communication towers and antennas are subject further to the following conditions:

    (1) Operational requirements necessitate locating within the zoning district, and co-location on or joint use of any existing tower or similar antenna support facility is not possible.

(2) The tower or antenna shall not be unreasonably injurious to the safety or aesthetics of any nearby properties. The design and appearance of the tower or antenna shall minimize distraction, maximize aesthetic appearance, and ensure compatibility with any existing structure(s) and other surrounding structures and properties. The city will not consider those areas of regulation preempted by federal law.

(3) Co-location, or the provision of more than one antenna on a single tower at a single location, shall be required. Before approval is granted for a new facility, the applicant shall demonstrate that co-location at an existing site is not possible.

(4) Co-location shall be deemed to be "possible" for the purposes of this section where all of the following are met:

a. The applicant will undertake to pay fair market rent or other market compensation for co-location.

b. The site on which co-location is being considered, including reasonable modification or replacement of a facility, is feasible.

c. The co-location being considered is technologically reasonable, e.g., the co-location will not result in unreasonable interference, given appropriate physical and other adjustment(s) in relation to the structure, antennas, and the like.

d. Existing towers or structures are located within the geographic area which meets the applicant's engineering requirements.

e. The fees, costs, or contractual provisions required in order to share an existing tower or structure or to adapt an existing tower or structure for co-location are not unreasonable. For the purposes of this paragraph, costs exceeding those for new tower development are presumed to be unreasonable.

(5) In furtherance of the city's objective of requiring co-location, where possible, should it be necessary to erect a new tower or similar structure, the applicant shall provide a letter of intent to lease excess space on a facility and commit itself to:

a. Respond to any requests for information from another potential shared use applicant;

b. Negotiate in good faith and allow for leased shared use, provided it can be demonstrated that it is possible; and

c. Make no more than a reasonable charge, based upon fair market value, for a shared use lease.

(6) The antenna/tower shall meet all current engineering and any other applicable standards of all federal, state and local governmental agencies. The applicant shall also provide evidence satisfactory to the planning commission demonstrating that the proposed tower and related facilities are consistent with the current state of technology in the wireless industry.

(7) A condition of approval of a wireless communication antenna/tower shall be a provision acceptable to the city for the removal of all or part of the facility by users and/or owners upon the determination that the antenna has not been used for 180 days or more. Removal includes the proper receipt of a demolition permit from the building official and proper restoration of the site to the satisfaction of the building official after removal.

(8) Should a new antenna or cellular repeater co-locate on an existing wireless tower or an existing electric transmission tower, conditional use approval shall not be necessary and site plan approval for a new antenna, cellular repeater and any related equipment building may be granted administratively, pursuant to the provisions of article 27 of this ordinance. Where a new antenna, cellular repeater is co-located on a structure other than an existing wireless tower or electric transmission tower, conditional

use approval shall not be necessary and site plan approval for a new antenna, cellular repeater and any related equipment building may be granted by the planning commission pursuant to the provisions of this ordinance.

(9) To ensure proper removal of the tower and/or antenna when it is no longer being used and/or abandoned, any application for a new tower and/or antenna shall include a description of security to be posted at the time of receiving a building permit for the facility. The security shall, at the election of the applicant, be in the form of cash, bank letter of credit, or surety bond acceptable to the city. An agreement to remove and maintain the tower/antenna, in a form approved by the city attorney and recordable at the office of the register of deeds, is also required, establishing a requirement of the applicant and the owner of the property to remove the facility in a timely manner with the applicant and owner being responsible for the payment of any costs and attorney's fees incurred by the city in securing removal. The applicant shall provide the city with a copy of its agreement with the tower owner, which shall include removal language acceptable to the city. In the event the applicant is proposing to place its facilities on an existing tower, then the agreement referred to above may be signed by the applicant only, and shall contain provisions satisfactory to the city attorney regarding timely removal of the facilities and adequate remedies. The requirements of this subsection shall be binding upon all successors, heirs, and/or assigns of the applicant.

(10) All tower bases and related equipment shall be screened from view from any major arterial, public walking paths and any adjoining residential areas, consistent with article 28, landscaping, screen walls and woodlands protection. All ice bridges shall be located below the screening or base.

(11) Monopole antenna structures and stealth support structures are the only acceptable types of structures, except in the CBD. Only roof-mounted structures are permitted in the CBD.

(12) All towers, structures and related equipment shall be designed to be compatible and harmonious in terms of style and building materials to the surrounding area. When necessary to ensure compatibility with the surrounding area, a visual simulation may be required of the applicant. A visual simulation consists of an artist's or architect's rendering, or a suitable photo rendering of how the tower will appear in the area proposed, taking into account existing buildings and natural features.

(13) The maximum height of any new wireless communication tower or antenna shall be as determined by the planning commission through the granting of conditional use and/or site plan approval. The height permitted shall be the minimum height necessary to meet the applicant's engineering requirements for the site being considered, but in no instance shall it exceed a maximum height of 150 feet. It is understood that the height of a wireless communication tower or antenna may exceed the maximum permitted height specified in the Schedule of District Regulations found in article 20 of this ordinance. Should co-location be proposed upon an existing structure, thereby qualifying for administrative approval, the height proposed may be approved by the administrative official approving the site plan.

(14) Cell tower site access:

a. All trees and brush shall be kept cleared for a minimum width of 14 feet for the full length of all cell tower site access drives.

b. All topsoil, stumps, and unstable soil shall be removed and backfilled with appropriate granular material and surfaced with gravel, crushed limestone, finely crushed concrete or similar material approved by the planning commission, for a minimum width of 12 feet for the full length of the driveway. The installation shall be reviewed and approved by the city's engineer and/or director of the department of public works.

c. An appropriate area shall be provided for vehicles to turn around to exit the site such that ASHTO standards are met. The turnaround area may be incorporated as part of the parking area for service personnel.

(15) Prior to and as a condition of granting approval for a new wireless communication tower on private property, it shall be necessary for the applicant to demonstrate that it is not feasible to:

a. Locate the tower on any publicly owned land within the city upon which the public entity reasonably anticipates the need or desirability of a future wireless communication tower for public purposes; and

b. Locate the tower on publicly owned land not owned by the city where such location would minimize the impact on other properties by providing a setback larger than the minimum requirements of the ordinance, while meeting all of the other requirements contained in this section.

c. Use a cellular repeater to accommodate the demonstrated need for additional wireless communication service.

(16) Applicants who erect a new wireless communication tower shall design the tower and site to accommodate future co-location of at least six platforms (and the antennas thereon) and associated accessory buildings, and shall make the tower available for use by public service agencies, provided that public service agency equipment mounted on the tower does not adversely affect any existing equipment and mounting the public service agency equipment is technologically possible.

(17) New wireless communication towers shall be set back a minimum distance of one foot for each one foot of overall tower and antenna height, except that towers shall be set back a minimum distance of two feet for each one foot of overall towers and antenna height when adjoining property zoned for residential use. The setback shall be measured from the nearest point of the base of the tower to the nearest property line, or unit boundary line in the case of a site condominium development. In nonresidential zones with nonresidential adjoining property, the minimum setback distance may be reduced to not less than the minimum setback required in the zoning district at issue when it is clearly demonstrated by the applicant that the tower has been designed to fall within the leased area in the event of structural collapse. Antennas located on electric transmission towers, existing wireless communication towers, or other tall structures shall be considered to have complied with the setback and height requirements. The setback from a public right-of-way or public or private street may be reduced to one-half the height of the tower. A preexisting, nonconforming tower may be rebuilt to its nonconforming height if the tower owner demonstrates to the planning commission that technology requirements are such that the current height is necessary to maintain current levels of service.

(18) Towers and equipment shall be regularly maintained, in accordance with a schedule or similar evidence submitted to the planning commission, in working order and in compliance with all governmental and regulatory agency regulations. Notices of any deficiencies, noncompliance or other violations of any laws, regulations or other requirements pertaining to the tower and its operation from any governmental agency shall be forwarded to the city manager and city attorney within 15 days of the owner's receipt of said notice.

(19) The applicant shall be required to obtain and maintain general liability insurance with issuers and in such amounts acceptable to the city. The applicant shall provide the city with certificates of insurance, and all renewal certificates, demonstrating that any damages caused by the tower/antenna including, but not limited to, any collapse or malfunction, will be covered. Such insurance shall be maintained at all times that the tower, equipment and/or antenna are located at or on the property.

(20) Applicants for a new wireless communications tower shall be required to demonstrate that the use of cellular repeaters is not feasible to accommodate the stated need for improved or additional wireless communications services. The city encourages the use of cellular repeaters to eliminate the installation of new towers and to reduce the number of existing towers, antennas and equipment. Cellular repeaters shall be designed and located to minimize their visibility and blend into current towers and structures. The size and height of location of any proposed repeater units shall be based upon practical

considerations and technology that is currently available, and shall not be located within driving sight lines.

(Ord. No. 2011-16, 9-26-2011)

Sec. 2107. Access required.

(a) Every building shall be on a lot adjacent and having access to a public street, or to a private street approved and meeting conditions established by the board of appeals. All structures shall be so located on lots as to allow safe and convenient access for fire and police protection, required off-street parking, and municipal services.

Sec. 2108. Public utilities and facilities as conditional uses.

Any use, structure or building of a public utility, municipal department or public commission which is not an "essential service" as defined by this ordinance may be allowed in any district as a conditional use. However, none of the following shall be allowed in a residential district unless other locations outside residential districts cannot reasonable be substituted.

(1) Any public utility building of greater than one story or 15 feet in height, or any building to be occupied by more than two employees, or any building in which business is conducted with customers, or any garage for storage or service of vehicles.

(2) Any yard for storage of vehicles, building materials, construction equipment, road salt, sand, or gravel.

(3) Any tower or pole of more than four feet in height.

Sec. 2109. Minimum dimensions, floor areas, open space, and permanency requirements for dwelling units.

(a) The following requirements apply to dwelling units in all districts.

(1) Every dwelling unit having direct access to the outside ground (such as a one-family dwelling or townhouse), without principal access through a common entrance area, shall have a minimum outside building width of 16 feet, and a minimum outside length of 16 feet.

(2) Every dwelling unit shall be permanently attached to a permanent foundation.

(3) The minimum allowable floor area (see definition of floor area under article 39) of a one-family dwelling shall be as follows:

a. If the dwelling has a basement of at least 400 square feet floor area with at least 72 inches height clearance, the minimum allowable floor area (excluding basement) of the dwelling shall be 900 square feet;

b. The minimum allowable floor area of all other one-family dwellings shall be 1,200 square feet.

(4) The minimum allowable floor areas in two-family dwellings and multifamily dwellings as defined by article 39 shall be as follows:

One-bedroom units (including efficiency and studio units)	500 sq. ft.
Two-bedroom units	700 sq. ft.
Three-bedroom units	900 sq. ft.
Units of more than three bedrooms	An additional 300 sq. ft.

(b) The planning commission, in conjunction with site plan approval, may approve a reduction of up to 20 percent in the above floor area requirements for dwelling units in multifamily dwellings, based on one or more of the following conditions:

(1) Occupancy permanently restricted to elderly and/or disabled persons, as determined by the city planning commission.

(2) Common activity rooms and recreational facilities within the building or in close proximity.

(3) Unusual or special housing situations in which occupancy limitations can and will be administratively enforced, as determined by the city planning commission, such as public housing, college housing, or hospital staff housing.

(c) For purposes of this section, usable open space is defined as open space in the rear yard of a dwelling, or other space not located in a required front yard or required side yard, the least dimension of which is eight feet, and which is designated for and devoted to outdoor recreation such as play areas, patios, lawn, gardening or similar purposes, and which is not used for parking of vehicles or equipment, storage, or driveways. The minimum usable open space per dwelling unit shall be as follows:

(1) One-family dwelling unit: 600 square feet.

(2) All other dwelling units, per bedroom (including efficiency and studio units): 150 square feet.

(d) The city planning commission shall grant 50 percent credit towards the above requirement for the floor area of balconies, porches, and roof patios which it finds serve the intent of this section. The provisions of this section do not reduce any other provisions of this ordinance in regard to required setbacks, lot coverage, open space, or off-street parking requirements.

Sec. 2110. Dwelling esthetics compatibility.

(a) The provisions of this paragraph apply to all dwellings. The dwelling shall have a roof overhang of not less than six inches on the building front, or alternatively shall have roof drainage concentrating drainage discharge at specifically designed outlets along walls of the dwelling. A single-family dwelling shall have at least two exterior doors, one of which shall be in either the side or rear of the building. No exterior building finish, except glass and incidental minor appurtenances, shall be used which has a tendency to reflect light glare. All exterior materials shall be, and visually appear to be, of a permanent and durable character, and constructed in a proficient manner of good quality, based on the commonly prevailing standards of the home building industry and building trades in Oakland County.

Sec. 2111. Upper story apartments.

Upper story apartments are intended to improve the city's business districts by lowering vacancies in upper stories and by bringing people back into the downtown. The city hopes to make quality apartments available, through the private sector, that are closer to the community's center of activity than the majority of the existing rental housing units.

(1) Upper story apartments may be permitted in existing multi-story buildings, new construction, and additions to existing one-story buildings.

(2) Off-street parking shall be provided on-site in accordance with the requirements of article 24 for all upper story apartments except those located within the parking exempt zone. Upper story apartments located outside the parking exempt zone that do not have sufficient space for parking on-site may seek approval of one of the following options:

a. Parking space on nearby private property by ownership or lease arrangement, provided such property shall not be zoned One-Family or Two-Family Residential, and said parking space shall be available for the exclusive use of the upper story apartment in perpetuity or until the upper story apartment use is terminated.

b. Overnight permit parking in a city-owned public parking lot.

c. Payment of a fee in lieu of parking equal to the current cost to the city of providing the equivalent number of public parking spaces, based on a size of 300 square feet per space.

(3) All upper story apartments shall meet the minimum allowable floor area requirements of section 2109.

(4) There shall be no open, exterior stairways providing access to upper story apartments, however, in circumstances where interior stairways would be difficult to provide, unique designs for open stairways may be considered where special design attention is given to safety and aesthetic appearance. Whenever possible, stairway entrances shall be located within the interior of the existing first floor area.

Sec. 2112. Non-functional and/or non-structural towers.

(a) Certain building elements which are non-functional or non-structural and typically take the form of a tower or similar monolithic element of greater height than the principal building elements whose only purpose is to attract attention are hereby declared to be out of character with the nature of the historical, present, and desirable future building development within the City of Rochester. This prohibition shall not apply to church steeples or similar building elements of a church or other house of worship.

Sec. 2113. Nursery schools, child care and day care centers.

Nursery schools, child care centers, day care centers, and similar uses shall be subject to the following standards:

(1) All such uses shall provide adequate drop-off and waiting space so that parents' cars are not required to stand in a public right-of-way. At least one drop-off space, or its equivalent as determined by the planning commission, shall be provided for each five persons or children enrolled or cared for at the facility.

(2) Outdoor play space shall be provided in the ratio of 50 square feet per child cared for, to a maximum required of 10,000 square feet. No outdoor play area shall be less than 1,000 square feet. An outdoor recreation area is recommended, but not required, for adult day-care facilities.

(3) To ensure child safety, all outdoor use areas shall be enclosed by a four foot six inch high fence of a non-climbable design. On those sides abutting a residential zoning district or use, a six-foot-high obscuring fence of masonry or other material approved by the commission shall be required.

(4) The site layout shall be designed to ensure pedestrian safety by separating play areas from parking and driveways.

(5) Overnight and night time care after 8:00 p.m. may be permitted by the planning commission only after an affirmative finding regarding each of the following standards:

a. The child care facility is operated in support of an existing business or institution in the city, principally for its own staff or employees, or is otherwise demonstrated to be targeted to serving existing businesses and institutions located within three miles of the city.

b. The interior floor plan, fire prevention plan and equipment, fire exits, and emergency evacuation plan shall be reviewed and approved by the city fire marshal.

c. The building shall include full fire suppression, as approved by the building inspector.

d. The applicant shall file a proposed plan of operation addressing the following as illustrations only: security; staff to children ratios; parking/drop-off hours; staff training and certification; notification regarding transfer of ownership; 24-hour contact names and phone numbers for the person(s) with daily management responsibility; and other matters neither enforced nor regulated by the department of social services.

e. Evidence of compliance with the department of social services child care center rules regarding night time care.

(6) All day care facilities shall provide 50 square feet of indoor space for each adult or child in their care, based upon their current license and any conditions of their conditional use permit. This space shall be exclusive of space for offices, restrooms, and kitchens.

(7) Sufficient on-site parking shall be provided to satisfy the needs of the staff, visitors, and clients of all day care facilities, as determined by the planning commission based on review of the site plan. One space for each five persons cared for shall be provided on-site as the customary standard; however, this may be modified by the planning commission based upon site layout and plan of operation for larger facilities and those that include overnight care under subsection (5) of this section.

(8) Annual inspections of proposed facilities may be required as a condition of approval.

(9) Subject to a finding of no substantial adverse impact to nearby residential uses.

(Ord. No. 2007-03, 4-23-2007)

Sec. 2114. Bed and breakfast homes.

In addition to the districts that include Bed and breakfast homes, they may also be permitted as conditional uses on residentially zoned properties that have frontage on and driveway access to North Main Street or West University. Bed and breakfast homes are subject to the following standards:

(1) Bed and breakfast homes shall comply with licensing and inspection requirements of all state, county and local codes and regulations and shall submit all required fees to the city with an application for special use approval.

(2) There shall be no separate cooking facilities in the bed and breakfast sleeping rooms.

(3) Only one, non-illuminated sign of not more than four square feet shall be permitted and shall be located on the building in residential districts. In commercial and office zones, signs shall comply with the requirements for that particular district.

(4) The number of off-street parking spaces shall be provided as outlined in section 2403.

(5) In commercial and office districts, the design and construction of off-street parking shall comply with the standards of section 2403.

(6) In residential districts, the design and construction of off-street parking shall comply with the following:

a. Parking is prohibited between the principal building and the front lot line.

b. Parking lot lighting is prohibited in residential districts except for the use of residential porch and landscape lights.

c. Parking shall not be permitted within a required rear yard setback unless the planning commission finds that adequate screening can be provided to ensure that there will not be a deterioration of the quality of life to the abutting residential property owners.

d. In order to preserve the residential character of the area, the planning commission may permit stacking of the owners'/manager's vehicles.

e. Screening for off-street parking shall be provided for abutting residential uses. Such screening shall consist of a dense evergreen planting with shrubs not less than 3½ feet tall at the time of planting. Screening shall be maintained by the operator of a bed and breakfast and shall be inspected annually as part of the license renewal process.

f. The planning commission may limit the number of guest rooms otherwise permitted if it finds that the required parking for the requested number of guest rooms would be excessive for the site and significantly detract from the residential character of the neighborhood.

(7) Bed and breakfast homes shall be confined to the dwelling unit, which is the principal dwelling unit on the property. No structure shall be modified or reconstructed for a bed and breakfast home in a manner inconsistent with its residential character and use, and adequate living space must be preserved for the owner's/manager's quarters. A common room for guest relaxation is required in these facilities.

(8) In a residential district, bed and breakfast operations shall not be granted if the essential residential character of a lot or structure, in terms of use, traffic generation, or appearance will be changed in a manner inconsistent with the immediate neighborhood. The dwelling unit in which the bed and breakfast takes place shall be the principal residence of the owner/operator, and said operator shall live on the premises when the bed and breakfast operation is active.

(9) The maximum stay for any guests at a single bed and breakfast home shall be 14 consecutive days to a maximum of not more than 30 days per year.

(10) Rooms utilized for sleeping shall have a minimum size of 100 square feet for two occupants with an additional 30 square feet for each additional occupant to a maximum of four occupants per room.

(11) A minimum of one full bathroom shall be provided for every two guest rooms.

(12) In residential districts, a bed and breakfast home shall be limited to not more than two outside (non-resident) employees. Residential-type services, such as house cleaning and yard maintenance, are permitted.

(13) Conditional use approval for bed and breakfast homes may be transferred to subsequent owners with the approval of city council and issuance of a new annual license.

(Ord. No. 2009-21, pt. 4, 11-9-2009)

Sec. 2115. Special projects approval standards.

(a) The city's adopted master plan includes proposals for the development/redevelopment of a number of special projects. A "special project" means a development that is located within the special project overlay district or other non-residential or multiple family zoned property adjacent to the special project overlay district boundary line, subject to city council approval upon recommendation by the planning commission, that would not meet or fully comply with all of the zoning requirements or permitted uses applicable to that property and its underlying zoning district, but which the developer seeks approval and which the city will consider if certain conditions and requirements are met by the developer that would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity and/or general welfare. These special projects include a variety of land uses and sometimes involve mixed-use development proposals. The typical zoning district found in this Zoning Code is often too rigid to accommodate the type of innovative development proposals the city hopes to encourage within the special project areas. At the same time, it may not be possible to develop a zone or zones with the needed flexibility. In order to encourage the most creative approach to development of the special projects, the city has chosen to create special projects review process and standards.

(b) Each applicant for special project approval must, to the extent applicable, submit the following as part of the application:

(1) A detailed site plan of the proposed special project, including site location and surrounding buildings, zoning and uses;

(2) Exterior building elevations and floor plans;

(3) A statement providing the number of new employment opportunities to be created as a result of the project;

(4) A statement indicating the applicant's ownership or leasehold interest in the property;

(5) A statement as to why the proposed special project will be a positive improvement to the city;

(6) Information showing the project's impact on the surrounding area, including, but not limited to, such things as parking, traffic, infrastructure and neighboring properties.

(7) For special projects that involve historical preservation or rehabilitation as part of the application, or that becomes part of or a condition of special project approval, the applicant shall provide a report and documentation from a qualified historic architect, regarding the items proposed to be preserved and the means and methods of how the preservation and/or restoration will be accomplished. For purposes of this section, a qualified historic architect shall mean an architect who possesses professional qualifications including, but not limited to:

a. Having a professional degree in architecture;

b. Being a licensed architect in the State of Michigan;

c. Having a significant amount of professional experience in historic preservation, restoration and adaptive re-use building projects, including detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation project; and

Such a report and supporting documentation shall clearly describe the project work, the project's compliance with the Secretary of the Interior Standards (see section 2115(c)(9)), a detailed explanation of the historic features of the property to be preserved/restored/rehabilitated/replaced, and the means and methods by which efforts will be accomplished. The city council and planning commission may require additional information and documentation deemed appropriate for historic preservation.

(8) In addition to the foregoing, for special projects involving historical preservation or rehabilitation, the applicant shall deposit $1,000.00 with the city. Said deposit will be held by the city until such time as the project is completed and receives final certificate of occupancy, unless some or all of said deposit is utilized for dispute resolution provided for in subsection (c)(9) below.

(c) In reviewing an application for special project approval, the following standards shall be applied:

(1) Special project approval may be granted for development projects only if they are located on property designated as a special project on the city's adopted master plan or other non-residential or multiple family zoned property adjacent to the special project overlay district boundary line, subject to city council approval upon recommendation by the planning commission. The arrangement of uses shall be based upon a detailed site plan and rezoning for the individual uses approved shall not be necessary.

(2) The appropriate mix and the specific land uses approved shall be determined by the city council after input from the planning commission, using the goals and objectives of the master plan as its guide, based upon the site plan submitted.

(3) Residential densities in excess of ten units per acre may only be approved upon a finding that the site plan provides adequate light, air, open space, and off-street parking, and that the design and layout promotes the public health, safety and general welfare.

(4) The opinions of local residents, area businesses and property owners presented at or before the public hearing.

(5) The desirability of the proposed use(s) in the city.

(6) The effects that the special project will have on the adequacy of parking in the area; vehicular circulation; pedestrian movement; infrastructure; city resources; and the health, safety and welfare of the general public.

(7) The overall benefit of the applicant's proposed special project and plan of operation to the city.

(8) Any other factor or factors that may affect the health, safety and welfare or the best interests of the city and its residents.

(9) For all special projects that involve historic preservation or rehabilitation, the site plan and the report of the property (required in section 2115(b)(7)) provided by the applicant shall be evaluated utilizing, among other things, the Secretary of the Interior's Standards for Rehabilitation found in 36 CFR 67. Such standards are as follows:

a. A property shall be used for its intended historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

c. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

e. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

h. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

The standards set forth above will be utilized regardless of whether the applicant is seeking tax credits or any specific historic preservation status. The planning commission and city council may utilize consultants, the "Guidelines for Rehabilitating Historic Buildings," produced by the Secretary of the Interior, and/or any such other resources as it may deem appropriate. The application may be referred to the historic district study committee, any other board or commission, or any qualified historical consultant deemed appropriate, to review and provide comments.

Once approved, should the applicant fail to comply with the approved historic preservation requirements, treatments and components, such failure shall constitute, among other things, violation of special project approval and the City Code pursuant to section 3700 of the Zoning Code, and the city may take any and all actions set forth therein.

In an attempt to arrive at an expeditious resolution, should there be a dispute between the applicant and the city as to the applicant's compliance with the approved historic preservation requirements and/or the application or interpretation of the Secretary of the Interior Standards for Rehabilitation to the project, the city may refer the issue(s) to a third-party historical consultant to provide an opinion/interpretation, with such opinion/interpretation being final and binding on both parties. The cost of the third-party historical consultant shall be deducted from the deposit required under subsection (b)(8) above.

(d) The special project approval process shall be as follows:

(1) Each application for special project approval, including site plan approval, shall be placed on the agenda of a regular meeting of the planning commission for review of the application content.

(2) A preliminary report shall be requested from the city planning consultant for that initial planning commission meeting, which shall evaluate the quality and content of the materials submitted, shall compare the use(s) proposed with the goals and objectives of the city's master plan, and shall recommend whether or not the application materials are sufficient to present the proposed special project and site plan at a hearing for public comment.

(3) After the planning commission finds that the special project and site plan application is sufficiently complete to present to the public, they shall schedule and hold a public hearing on the matter, in conformance with section 2602.

(4) After public hearing, the planning commission shall consider not only the special project application, but shall proceed with consideration of the site plan in accordance with article 27 of the zoning ordinance. Any such site plan approval shall be conditioned on the applicant receiving special project approval from city council.

(5) Following the hearing, if the planning commission approves the site plan, the planning commission shall transmit copies of the complete application, the approved site plan, the planning consultant's preliminary report, the draft minutes of the public hearing and the planning commission's recommendation on the special project application to the city council.

(6) The application shall be placed on the agenda of a regular meeting of the city council.

(7) If the city council believes that another public hearing on the application is appropriate, it may schedule and hold such a public hearing on the matter at its next regular meeting, or at a special meeting.

(8) Approval of a special project shall be in writing, based upon findings of facts, may include any reasonable conditions determined by the city council after input from the planning commission to be necessary to ensure compatibility with neighboring uses, and shall be attached to the site plan for the special project.

(9) For purposes of special projects, the applicant must obtain special project approval from city council within one year from the date the planning commission granted site plan approval under this section 2115. City council may extend this time in its discretion if it deems an extension to be appropriate. If special project approval is not obtained within this time, the applicant must seek site plan approval through the site plan approval process again.

(Ord. No. 2005-02, 4-25-2005; Ord. No. 2012-01, 3-26-2012; Ord. No. 2014-08, 7-14-2014; Ord. No. 2023-04, § pt. I, 5-22-2023)

Sec. 2116. Residential infill housing development standards.

(a) *Infill development definitions.*

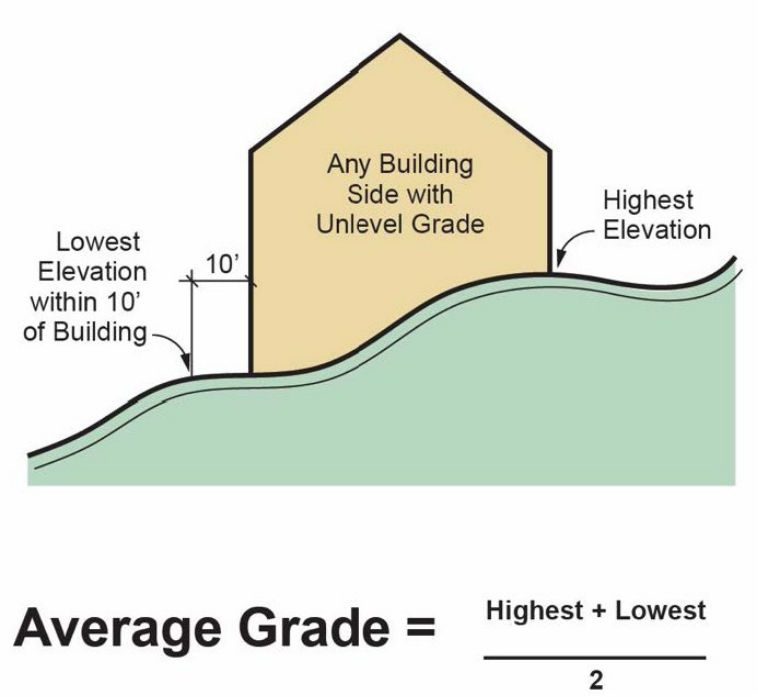
Average grade of an infill development lot means the average grade of the two lots immediately adjoining the infill development lot, measured at the front of the dwelling on each existing lot, as determined by the building inspector. The average grade for corner lots at the crest of a hill, lots at the bottom of a valley, and similar lots in non-standard settings shall be determined by the building inspector.

Infill development means demolition and replacement of an existing structure with one or more new structures; splitting of an existing developed lot to create an additional building site; construction on a vacant lot where the homes within 200 feet on the same side of the block are an average of at least ten years old; and/or the addition of 500 square feet or more to an existing home where the homes within 200 feet on the same side of the block are an average of at least ten years old.

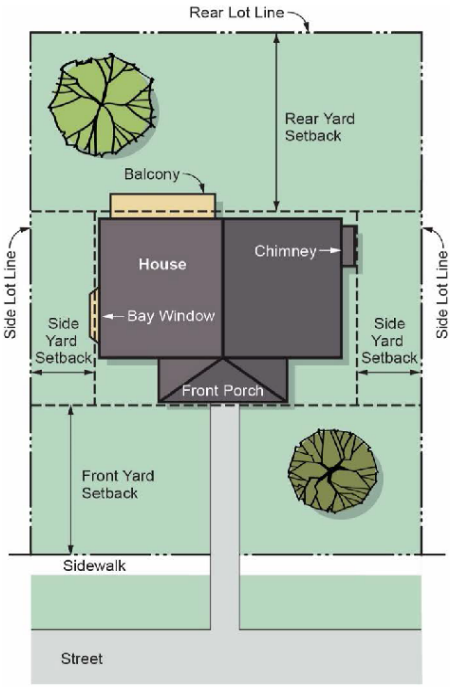
Infill house means a house constructed on a vacant lot or a house constructed to replace a demolished house where the homes within 200 feet on the same side of the block are an average of at least ten years old.

(b) *Residential infill housing development standards.*

(1) The top of the basement wall of a residential infill house shall not be raised more than 12 inches above the average grade of the lot, as determined by the building inspector. In addition, the first-floor elevation of a residential infill house shall not be more than 36 inches above the average grade of the lot, as determined by the building inspector.

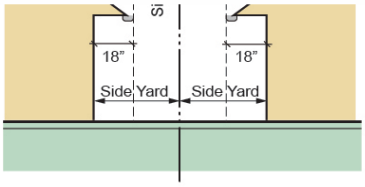


(2) The average grade of a lot shall not be raised above the average of the grade of the lots on either side but may be lowered, as determined by the building inspector, even if removal of existing mature tree(s) would be required. Positive drainage shall be provided such that water drains away from the infill house and is not allowed to drain onto abutting lots, however, historical drainage patterns may be maintained, subject to approval by the building inspector.



Infill Lot Projections

Permitted Building Projections into Required Yards



Eaves

Side yard example

(3) Driveways for infill development shall not be raised above the grade of the immediately adjoining residential lot.

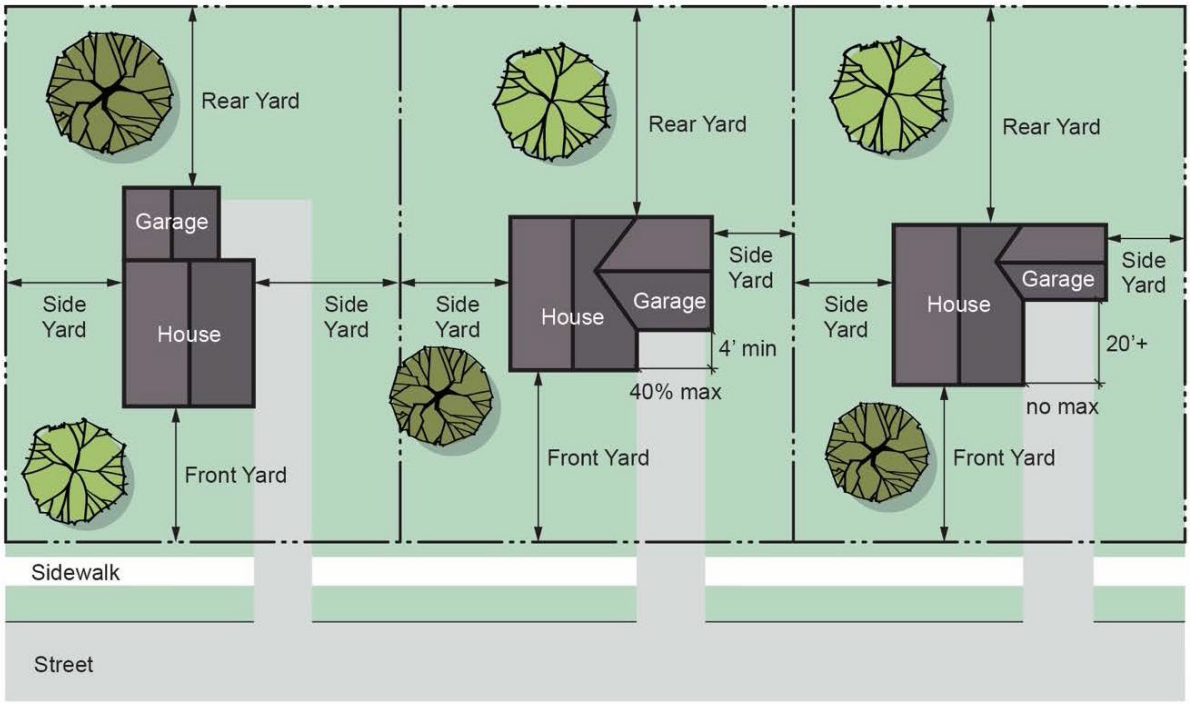
(4) There shall be no retaining walls permitted in the front or side yards of an infill development lot except those previously existing or those required to correct drainage problems. Existing retaining walls may be required to be reduced in height, as determined by the building inspector. This shall not prevent landscape walls, raised planter, and the like, constructed during the ordinary landscaping of the homesite, as determined by the building inspector.

(5) Architectural building features that are an extension of the building footprint shall not project into any required front, side, or rear yard.

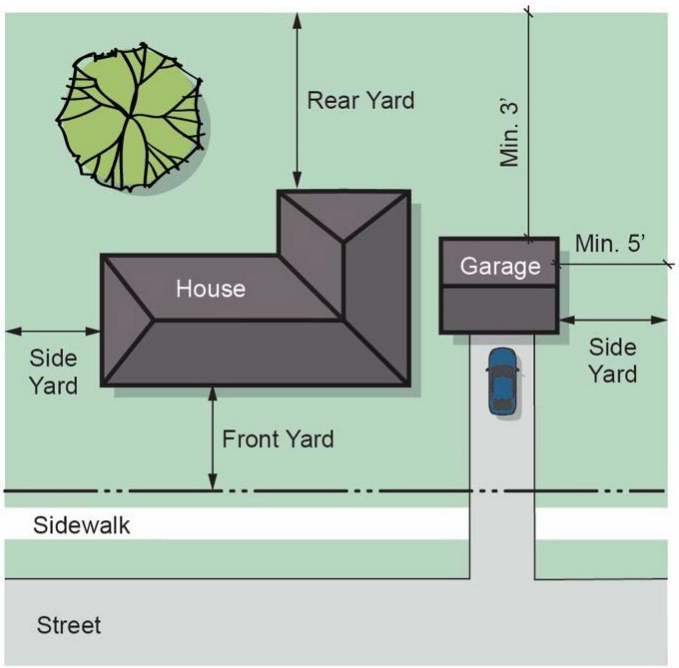
(6) A roof overhang, inclusive of gutters, may project into any required yard up to 18 inches.

(7) Architectural building features cantilevered from the building wall, such as but not limited to bay windows, alcoves, and the like, may project up to 18 inches into a front or rear setback, provided such

features do not exceed 20 percent of the front wall area or 50 percent of the rear wall area of the dwelling. Such building features may project into any required side yard up to 18 inches.



Attached Garages



Detached Garage Setback

(8) In single-family districts, detached and attached garages shall conform to the standards in section 2102, accessory structures.

a. The front wall of an attached, front-entry garage shall be setback at least four feet behind the front wall of the dwelling to which it attaches, unless 20 percent of the existing homes within 500 feet on both sides of the street already fail to meet this standard.

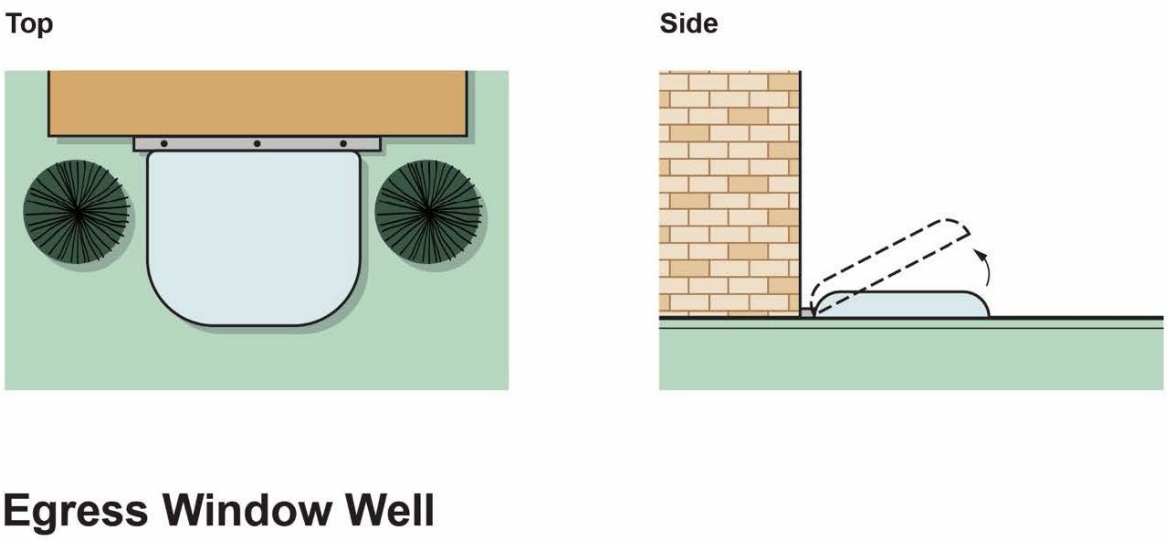
b. Detached garages on infill development homesites shall be setback not less than five feet from all side lot lines and three feet from rear lot lines.

(9) The front setback of an infill house need not be greater than the average front setback of the homes within 200 feet on the same side of the block, even if this average setback is less than the minimum required for the zoning district in question (see attached illustration "B" (in section 2117).

(10) The front setback of an infill house shall not be greater than the front setback required in the zoning district in question unless the average front setback of the homes within 200 feet on the same side of the block is equal to or greater than the proposed setback. (See attached illustration "C" (in section 2117).) On corner lots the front setback of the homes within 200 feet in the interior of the block shall be used to establish the average front setback. (See illustration "D" (in section 2117.)

(11) Egress window wells may project into any required side or rear yard provided they are set back a minimum of two feet from any side or rear property lines. Egress windows may not project into a required front yard.

a. Egress window wells in side yards shall be provided with a permanently anchored, hinged cover. Covers shall be able to support a minimum of 40 pounds per square foot of surface area.



b. Egress window wells shall comply with all applicable building codes.

(12) Sunken patios may project into any required side or rear yard, provided they are setback a minimum of three feet from any side or rear property line. Sunken patios may not project into a required front yard.

(c) *[Request for site plan review and approval.]* If an applicant for a building permit for a residential infill development objects to a decision of the building official with regard to the standards in subsection (b) above, the applicant may appeal that decision and/or seek a variance from the zoning board of appeals in accordance with section 3001.

(Ord. No. 2000-09, pt. 1, 12-11-2000; Ord. No. 2011-02, 2-14-2011; Ord. No. 2012-10, pt. I, 6-25-2012; Ord. No. 2021-01, 3-8-2021)

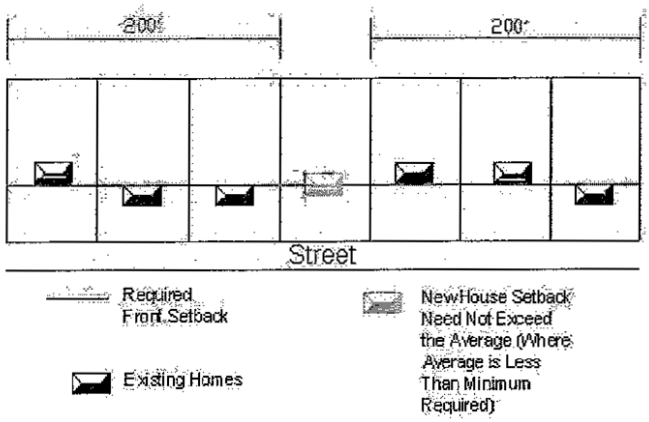
Sec. 2117. Parcel width compatibility standard.

This ordinance recognizes that there are existing neighborhoods where the typical size of actual homesites exceeds the minimum lot width requirements of the zoning district. Within such neighborhoods, it is the intent of this ordinance to maintain and promote development patterns that are compatible with these existing neighborhood characteristics. Whenever existing parcels are proposed to be split and/or recombined to create two or more building sites, the minimum required parcel width shall be the greater of the following:

(1) The minimum lot width required in the zoning district; or

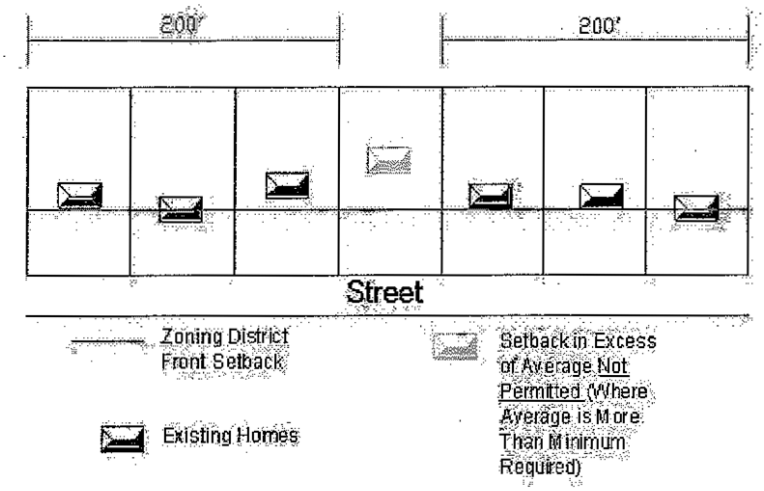
(2) The average width of the existing parcels on the same side of the street and within the same block or the average width of the existing parcels on the same side of the street within 200 feet on both sides of the subject parcel, whichever distance is less.

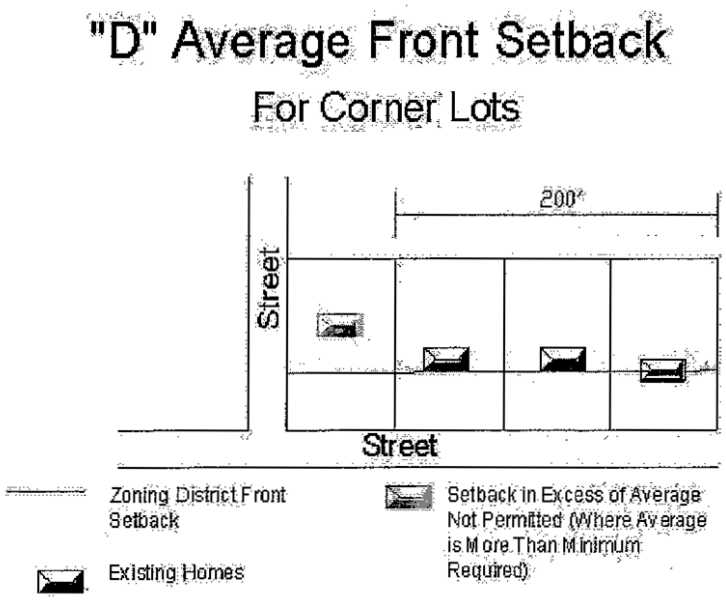
"B" Average Front Setback



"C" Average Front Setback

For Mid-Block Lots





(Ord. No. 2001-12, 12-12-2001)

Sec. 2118. Architectural guidelines and standards for nonresidential and mixed-use buildings and projects.

The requirements of this section are intended to promote architectural and site design treatments that will enhance and maintain the visual appearance and character of development within the City of Rochester. The standards are consistent with the City of Rochester's adopted design guidelines and represent the city's desire to create and maintain a strong community image and identity.

(1) *Development in the Central Business District.*

a. *Applicability.* Provisions of this section are applicable to all downtown development in the CBD, including new buildings as well as the redevelopment of an existing building that alters more than 50 percent of the gross floor area.

b. *Facade standards.* All exterior building facades that face a public right-of-way shall be designed to maintain the rhythmic pattern of the street and to stimulate visual interest through the use of materials and architectural treatments. Architectural features shall be compatible with the established pattern of neighboring buildings.

1. The size and shape of windows for new construction should be similar to the neighboring buildings in order to maintain the facade pattern of the block.

2. Glass to wall percentages should reflect the different uses of the building.

(i) Facades of first floor commercial uses shall incorporate display windows on a minimum of 40 percent to a maximum of 60 percent of the facade area. Non reflective clear glass windows shall be used on the first floor to prevent glare and to increase pedestrian interest.

(ii) Upper story office and residential facades should have a glass area ranging from 15 percent to 50 percent of the facade area. Windows on upper stories should be vertically oriented.

3. Well-defined, attractive entrances shall be encouraged to attract pedestrian interest. Main entrances shall incorporate design features such as canopies, recessed entrances, and architectural details such as moldings, unique door pulls and decorative tile work. Recessed entrances shall be set back approximately four feet for adequate space and to create a distinct threshold from the street. The building facade line shall be maintained on upper floors.

4. Exterior building materials and colors contribute significantly to the visual impact of a building on the community. Wall materials shall be compatible with the character of existing neighboring buildings. The use of certain materials on facades in the Central Business District is restricted as follows:

   (i) Facade materials for developments shall use similar scaled elements and materials found in the district such as brick and modular stone.

   (ii) Exterior insulation finish systems (EIFS) or other synthetic materials may be approved by the planning commission for decorative or accent features. Such materials may be used as a primary facade material provided they are installed at a height of ten feet or greater above grade and provided that they constitute not more than 20 percent of the total facade area, excluding window areas. Whenever EIFS is used on the first floor as a decorative or accent feature, it shall incorporate high impact reinforcing mesh.

   (iii) Blank wall areas on any facade shall not exceed ten feet in vertical direction or 20 feet in horizontal direction.

   (iv) Material transitions and a minimum one- to 1½-inch variation in the wall plane shall be used to create interest on the facade surface.

5. Development within the Central Business District must provide a minimum of three of the following building design treatments:

   (i) Raised parapet with cornice over primary customer entrance, integrated with the building's massing and style.

   (ii) Arches or arched forms.

   (iii) Canopies or porticos integrated with the building's massing and style.

   (iv) Ornamental and structural details that are integrated into the building structure such as but not limited to decorative coursework, pilasters or columns, corbeling, reveals or caps.

   (v) Recessed building entrance.

   (vi) Decorative urns or planters.

   (vii) Perimeter landscaping planted adjacent to and along the full length of the facade. The landscaping should be a minimum of four feet wide and shall be planted in accord with article 28.

   (viii) Artwork, including sculpture, stone or ceramic decorative tiles or similar features and excluding corporate logos or advertising.

6. Alley facades should be maintained to provide an attractive face to rear entrances and parking areas. The following design requirements apply to alley facades:

    (i) Mixed-use buildings with residential uses shall have direct access to residential units from the alley facade.

    (ii) Alley facades shall maintain interest through the use of additive structures such as stairways, decks and outdoor terraces. Outdoor terraces should be encouraged as an amenity for residential units in mixed-use buildings.

    (iii) Buildings should step down to the more narrow scale of the alley.

    (iv) Glazing on alley facades shall be adequate to allow sufficient light and ventilation into the building.

c. *Building mass scale and form.* The placement, mass and scale of buildings help to maintain the coherent visual image and character of the downtown. Large monolithic buildings are incompatible with the established character of the City of Rochester's Central Business District. The following requirements are intended to maintain and enhance that established character by providing for compatible new development.

1. A maximum front yard setback of zero feet shall be maintained in the Central Business District to maintain the street wall, unless otherwise approved by the planning commission.
2. In the Central Business District, a portion of the building wall may be set back from the sidewalk to provide for outdoor seating or public space if the front line of the building is maintained through the use of planters, railings, columns or similar features.
3. Off-street parking shall be provided behind the building.
4. Buildings shall be built out to the full width of the parcel.
5. For buildings exceeding the typical downtown building width of 20 to 50 feet variations in design features shall be used to ensure compatibility with existing building widths in the district. Approved variations include:

    (i) Changes in facade materials, window design, facade height or decorative details intended to add interest to the facade.

    (ii) Use of structural bays to break down the mass of the building horizontally and vertically into a hierarchy of volumes.

    (iii) Variations in the wall plane shall be used to maintain a human scale.

6. Rectangular forms should be dominant and should be vertically oriented consistent with existing development in the district.
7. Where feasible a maximum distance of 150 feet should occur between pedestrian entrances to buildings.
8. No side yards are required along interior lot lines, provided all requirements of the building code have been met with regard to fire protection and separation, adequate light, and adequate ventilation.
9. Flat rooflines with detailed parapets and embellished cornice lines for architectural interest shall be the dominant roof form consistent with the character of the district.
10. Parapets shall have horizontal emphasis and add interest to the facade.
11. With the exception of corner buildings, parapets on side facades should step down toward the rear of the building.

12. Corner buildings should exhibit similar two-story facades to those on the principal street, with slightly greater height allowed at the corner as an anchor feature of the block.

13. Facade height of new buildings should fall within the established range of the block and respect historic proportions of height to width.

(2) *Office corridor development.*

a. *Applicability.* Provisions of this section are applicable to all O-1 and O-2 development, in the North Main and West University Office Corridors including new buildings as well as the redevelopment of an existing building that alters more than 50 percent of the gross floor area.

b. *Facade standards.* All exterior building facades that face a public right-of-way shall be designed to maintain the rhythmic pattern of the street and to promote continuity through the use of materials and architectural treatments. The unique and desirable character of existing development of the district should be the basis for renovation and new construction.

1. Buildings shall provide a primary entryway along the street frontage to maintain the pedestrian-scale environment of the area. Architectural details including but not limited to porches, pediments or raised points of entry shall be used to provide emphasis to the primary entryway.

2. Secondary entryways shall be provided where parking is situated along the side or rear of the building.

3. Exterior building materials and colors contribute significantly to the visual impact of a building on the community. Wall materials shall be compatible with the character of existing neighboring buildings. The use of certain materials on facades in the O-1 and O-2 District is restricted as follows:

(i) Facade materials for developments shall use similar scaled elements and materials found in the district such as brick and modular stone.

(ii) Exterior insulation finish systems (EIFS) or other synthetic materials may be approved by the planning commission for decorative or accent features. Such materials may be used a primary facade material provided it is installed at a height of ten feet or greater above grade and provided that it constitutes not more than 20 percent of the total facade area, excluding window areas. Whenever EIFS is used on the first floor as a decorative or accent feature, it shall incorporate high impact reinforcing mesh.

(iii) Blank wall areas on any facade shall not exceed ten feet in vertical direction or 20 feet in horizontal direction.

4. Development within the district shall incorporate the following building design treatments:

(i) Ornamental details such as roof dormers, bay windows, stoops, porches and window shutters or similar architectural features consistent with the residential character of the neighborhood.

(ii) Gable and cross-gable roof forms shall be the dominant roof form consistent with the character of the district.

(iii) Prominent building entrances.

(iv) Decorative urns or planters.

(v) Perimeter landscaping planted adjacent to and along the full length of the facade. The landscaping shall be a minimum of four feet wide and shall be planted in accord with article 28.

(vi) Artwork, including sculpture, stone or ceramic decorative tiles or similar features and excluding corporate logos or advertising.

(vii) Shapes and sizes of architectural features shall be consistent with the established character of the area.

c. *Site design, building mass, scale and form.* The placement, mass and scale of buildings help to maintain the coherent visual image and character of a district. Large monolithic buildings are incompatible with the established character of the City of Rochester's O-1 and O-2 Districts. The following requirements are intended to maintain and enhance that established character by providing for compatible new office development.

1. Buildings proposed on corner lots shall built to the corner with parking located to the rear or side of the building.

2. Parking areas shall not be located at the intersection. Parking frontage shall not be more than one-third of the frontage of adjacent buildings or no more than 64 feet, whichever is less. Landscaping and decorative screen walls shall be required along the street frontage of parking areas in accordance with article 28.

3. Sites must provide for pedestrian connections from the parking area to the primary entryway at the front of the building.

4. A landscape buffer shall be required for developments adjacent to residential uses in accordance with article 28.

5. Traditional proportions of height to width shall be maintained.

6. For buildings exceeding widths of 20 to 30 feet variations in design features shall be used to ensure compatibility with existing building widths in the district. Approved variations include:

(i) Use of structural bays to break down the mass of the building horizontally and vertically into a hierarchy of volumes consistent with the mass of existing buildings in the district.

(ii) Staggered setbacks and variation of materials.

(iii) Attachments such as porches that provide variety in building form.

(Ord. No. 2004-02, 3-22-2004; Ord. No. 2008-04, art. 3, 3-10-2008)

Sec. 2119. Awning standards in business and office districts.

Awnings which are functional and visually appropriate to the structure under consideration and provide an attractive addition to the building facade may be permitted in O-1, O-2, B-1, and CBD Districts, subject to the following standards:

(1) Awnings may be approved by the building inspector if they serve a functional purpose based upon one or more of the following criteria.

a. Provides shade or shelter for tenants, customers, shoppers or pedestrians.

b. Reduces glare or serves as an energy saver by controlling the amount of light that penetrates to the interior of the office, retail store, or upper story apartment space.

(2) The awning shall be consistent in design, materials, and color with the established character of the immediately surrounding district and neighborhood, based upon the following criteria.

a. The color of the awning is compatible with the building on which it is to be attached. If the building under consideration contains more than one storefront, office, or apartment, each with a different color awning, the colors shall be compatible.

b. In the Central Business District, awnings should be cloth, finish canvas, or similar in appearance to cloth or canvas. To that end, high gloss fabrics and coatings shall be avoided and translucent materials shall be prohibited. Glass or metal canopies may be permitted if they are integral to the facade design and compatible with the character of the district.

c. Upper facade windows may incorporate box awnings or a similar style. First floor storefronts and offices shall incorporate slanted awnings with straight lines and flat planes or a similar style.

d. When awnings are proposed on both upper and lower facades, they shall be of compatible color, material and design.

e. Awnings which purport to reflect a proprietary, franchise or corporate color, design, and/or material will not be approved if they fail to conform with the criteria in subsections (2)a through d of this section.

f. Awnings should be projected over individual doors and windows and shall not be continuous over the entire width of the facade in a manner that obscures architectural features of the building.

g. The awning or canopy must be permanently attached to the building mounted on wood or metal framing of the door or window and not the wall surrounding the opening.

h. Backlit awnings shall be prohibited.

i. The minimum height of the awning shall be at least eight feet from the lowest point of the sidewalk to ensure clearance for pedestrian safety.

j. Signs incorporated as a part of an awning may be approved by the planning commission if they comply with all other regulations of article 22 of the zoning ordinance and subsections (1) and (2) of this section.

(3) If an applicant for an awning permit objects to a decision of the building inspector with regard to subsections (1) through (2)j of this section, the applicant shall request review by the planning commission. Building elevation drawings and awning construction plans, as well as fabric and color samples, shall be submitted for the planning commission's consideration. This step shall be completed before the building inspector's decision may be appealed to the zoning board of appeals. An awning so approved by the planning commission may be constructed without consideration of the awning by the zoning board of appeals.

(Ord. No. 2002-03, § 1, 3-25-2002; Ord. No. 2004-03, 3-22-2004)

Sec. 2120. Screening of mechanical equipment.

Mechanical equipment shall be situated in a manner appropriate to the surrounding area. All uses, except single-family homes in R-1, R-2, R-3, R-4 and R-5 districts, shall provide sufficient visual and acoustical screening of mechanical equipment, demonstrating compliance with the standards below as well as the performance standards for sound as set forth in section 2301.

(1) All transformers, climate control and other equipment not located within the building shall be indicated on the site and building plans and screened from view from any abutting street or adjacent property by a wall constructed of the same materials as the building and not less than the height of the equipment to be screened. As an alternative, the equipment may be screened by dense landscaped

plantings and or some other method approved by the planning commission. Where feasible such equipment shall be located within service alleys or other locations not immediately adjacent to streets, driveways or public gathering areas.

(2) Such equipment shall not be located in any required front yard nor in any required yard abutting a residential zoning district. Where mechanical equipment is proposed for a site that abuts an existing residential dwelling, the planning commission shall require additional methods of screening and or soundproofing deemed necessary to protect the residential use.

(3) All rooftop climate control equipment, elevator towers, transformer units, and similar equipment shall be indicated on the site and building plans and screened from view of any abutting street or adjacent property. The materials used to screen the equipment shall be compatible in color and type with the exterior finish materials of the building. Where possible, a parapet wall or similar architectural feature should be selected as the preferred method. These building architectural features shall be designed to completely obscure the rooftop equipment from view along a public sidewalk abutting the property and/or from a residential district abutting the property viewed from a height of five feet. The planning commission may permit rooftop equipment to be less than completely obscured where the parapet wall or similar feature would be out-of-scale with the building's architectural character.

(Ord. No. 2008-04, art. 2, 3-10-2008)

Sec. 2121. Outdoor dining standards.

Outdoor dining may be permitted as a non-transferable conditional use within the bistro overlay when incidental to a permitted restaurant or tavern, subject to the following special standards:

(1) Outdoor dining is only permitted immediately adjacent to the principal use on the same property, except as may be expanded into a right-of-way in accordance with subsection (6) of this section.

(2) Restaurants with outdoor dining shall comply with all licensing, permitting and inspection requirements of the City Code and shall submit annually all required fees with an application for approval. All initial applications for outdoor dining shall be submitted for city council approval once site plan and conditional use approval are granted by planning commission. Applications for subsequent years may be approved administratively by the city manager so long as the restaurant's outdoor dining application is the same as the previous year and there has not been any reported problems with said use. Notwithstanding, the application shall come before city council every fifth year for approval.

(3) Outdoor dining areas shall be kept clean and free from refuse at all times.

(4) All outdoor dining activity must cease at the close of business. However, when an outdoor dining area is immediately adjacent to any single-family or multiple-family residential district, all outdoor activity must cease at the earlier of close of business or 12:00 (midnight), unless the planning commission deems a different time more appropriate based on the particular circumstances of the applicant, such as the extent of buffering, sound and lighting reducing efforts, location of the outdoor dining on the property and its proximity to the residential units.

(5) Table umbrellas shall be considered under site plan review and shall not impede sight lines into a retail establishment, pedestrian flow in the outdoor dining area, or pedestrian or vehicular traffic flow outside the outdoor dining area.

(6) For outdoor dining located in any portion of the public right-of-way:

a. All such uses shall be subject to a license agreement from the city, contingent upon compliance with all city codes including all conditions required by the planning commission in conjunction with site plan approval. A copy of the form license agreement may be obtained from the city clerk.

b. After planning commission approval of the conditional use, the proposed license agreement will be forwarded to the city council for its consideration. Nothing in this section shall be construed to require a license agreement for an establishment with a carry-out service, ice cream parlor, or similar use where patrons may leave the establishment before consuming the food purchased, unless said establishment chooses to operate an outdoor cafe and seeks approval as set forth herein.

c. In order to safeguard the flow of pedestrians on the public sidewalk, such uses shall maintain an unobstructed sidewalk as required by the planning commission, but in no case less than five feet.

d. No permanent fixtures may be erected or installed in the public right-of-way.

e. Should the right-of-way involved be under the jurisdiction of the Michigan Department of Transportation or other governmental agency, the restaurant owner or operator must obtain any required permits from such department or agency.

f. Insurance must be procured and maintained as required in the license agreement.

(7) Outdoor dining is only permitted during the months of May through October, unless the applicant sufficiently demonstrates to the planning commission that this period should be expanded based on the particular circumstances of the applicant. For a business that has already been granted conditional use for outdoor dining, such business may make a request to the city manager to allow for outdoor dining at other times if weather permits or for individual specific events. Any such temporary approvals shall be subject to all other terms and conditions of the current approval including, but not limited to, any license agreement and other governmental permits required for outdoor dining in the public right-of-way. No tables, chairs, platforms, fencing barricades, refuse containers or other items shall be permitted except during permitted operation days.

(8) Outdoor dining at any location is not permitted without a city-issued permit or license.

(9) All outdoor dining areas shall have a barricade, fencing, or other means of appropriately separating the dining areas from pedestrian and vehicular traffic, which shall be considered under site plan review.

(10) Additional off-street parking as set forth in section 2403 c.

(11) Restaurants with outdoor dining shall meet all other standards for conditional use approval outlined in article 26 of this ordinance.

(Ord. No. 2009-12, 5-11-2009; Ord. No. 2011-10, 7-11-2011; Ord. No. 2019-15, 8-26-2019)

Sec. 2122. Spacing standards for SDM-licensed establishments.

(a) The City of Rochester recognizes that the number of specially designated distributor (SDD) licenses approved within the city is regulated by the Michigan Liquor Control Commission, based on a city population formula applied uniformly in Michigan. The city also recognizes that there are no similar limits placed on the number of specially designated merchant (SDM) licenses issued within the Rochester city limits. The city has determined that an over concentration of these establishments can have a deleterious affect on nearby residential uses and commercial areas. In order to prevent an over concentration of SDM-licensed establishments, the city requires the following minimum spacing standards:

(1) Five hundred feet from all public or private schools providing education to any grade(s) K-12, whether located within the City of Rochester or on its perimeter.

(2) Five hundred feet from any other establishment with a SDM or SDD license.

(3) The distances set forth above between the school building or other establishment and the contemplated location shall be measured along the centerline of the street or streets of address between two fixed points on the centerline determined by projecting straight lines, at right angles to

the centerline, from the part of the building nearest to the contemplated location and from the part of the contemplated location nearest to the building.

(b) The following shall be exempt from the spacing standards in subsections (a)(1) and (2) of this section:

(1) Any SDM-licensed establishment or proposed SDM-licensed establishment located in the CBD Central Business District; and

(2) Any restaurant with sit-down, table food service located in a Commercial (not office) district or approved by the planning commission as part of a special project.

(c) All proposed SDM license applications shall be reviewed by the building inspector, who shall determine whether the above spacing standards are met, based upon the parcel address on file for all K-12 schools in or adjoining the city, and all SDM and SDD-licensed establishments operating within the city.

(Ord. No. 2009-26, pt. 1, 12-14-2009)

Sec. 2123. Valet parking operational standards.

A valet parking operation is defined as a parking service provided by a commercial business as a service to the patrons of the facility by personnel retained to drive the patrons automobiles from a designated drop-off area to and from privately owned or city-designated valet parking spaces. Valet parking operations in the CBD zoning district, or for an approved special project downtown shall require a revocable license issued by the city council, following a review and recommendation to [the city] council by the planning commission.

(1) The following information must be provided/illustrated for review:

a. Location of dropoff (valet ramping) areas, in a clear and understandable format that illustrates the proposed area and operational valet plan;

b. Location and number of private valet parking spaces;

c. General operating procedures;

d. Proof of insurance covering the valet operation as proposed;

e. An agreement that indemnifies and holds the city harmless from liability associated with the operation of the valet parking service on a form acceptable to the city;

f. A list of the names, addresses and copies of driver's licenses of all valet drivers.

(2) Each request shall be considered according to the individual circumstances of the location.

(3) The city seeks to avoid multiple valet operations on adjoining properties, based on concerns of increased traffic congestion and confusion. When another valet parking license has already been issued for a valet parking area immediately adjacent to the proposed area, the issuance of a license will be on a case-by-case basis with the planning commission's review and recommendation to the city council to include the applicant's effort to coordinate valet operations with the adjoining property's valet license to use a single valet operation to service both properties.

(4) A license shall not be issued where the drop-off and pick-up of vehicles interferes with the safe operation of driveways, street intersections or crosswalks.

(5) A license shall not be issued where stacking of drop-off and pick-up of vehicles interferes with the safe traffic operation on adjacent streets or unduly delays normal traffic operations.

(6) Mobile stands, tables, chairs, keyboxes, ramping area directional signs, traffic cones and other objects necessary for the valet parking operation shall be of a high quality design and shall not interfere with pedestrian circulation as shown in the required plans in subsection (1)a of this section. Such objects

shall be maintained in good repair at all times, shall be removed at the close of business each day, and operational rules for the valets shall be clearly posted in an appropriate and easily understood format.

(7) No advertising signs shall be permitted on the sidewalk or in the public right-of-way; this shall not prohibit the use of one business identification sign located on the sidewalk, bearing no advertising and not exceeding five square feet in area, to be affixed to the valet parking service stand to identify "Valet Parking" and the name of the valet service.

(8) The valet ramping area shall comprise a minimum of three adjoining parking spaces (approximately 60 linear feet). If the valet ramping area requires the use of metered parking spaces, the licensee shall pay a valet ramping fee according to the rate established by the city council.

(9) Valet ramping on public property shall not occur in any location other than the public alley or on-street curbside parking spaces designated for ramping. Ramping of vehicles shall consist of allowing the customer to enter or exit a vehicle and to turn it over to or retrieve it from a valet parking employee. There shall be no storage of vehicles in the area designated for ramping. A vehicle will be considered stored if it remains in the ramping area for more than ten minutes. Ramping from a moving lane of traffic is strictly prohibited and may subject the host business to loss of its valet parking license.

(10) Customer and valet entry to the ramping area shall only be permitted from the adjoining travel lane and only from the same direction as the adjoining travel lane. The host business/license holder shall submit, as a component of its general operating procedure, the manner in which the travel direction will be identified and enforced, such as by: travel direction and wrong-way signs; placement of temporary traffic cones, and the like. A valet parking license shall be subject to revocation if host business customers or valets are permitted to enter the ramping area from the opposing direction or across the oncoming traffic.

(11) All valet parking operations shall be kept clean and free of trash and debris, including valet tickets and stubs. An application for a valet parking license shall address the manner in which the licensee will comply with this standard.

(12) Upon violation of any provision of this ordinance or conditions imposed by city council, a license for valet parking operation shall be subject to revocation by the city manager following written notification to the licensee. The licensee may request a show cause hearing before city council to present proof of compliance with the provisions of this Ordinance and any conditions of his/her license. A valet parking license shall be revoked if the city manager or city council determines that the operation of the service causes congestion which endangers the health, safety or welfare of persons, interferes with the appropriate use of other property; interferes with pedestrian or vehicular traffic; and/or interferes with the use of any pole, sign, fire hydrant, traffic signal or other object already permitted at or near the valet service.

(13) Annual renewal of a license shall require a demonstration of compliance with all requirements and permit conditions.

(Ord. No. 2010-01, 1-11-2010)

Sec. 2124.

Adult bookstore, adult cabaret and adult motion picture theater standards.

(1) These uses shall be situated within the district so as to be out of the reasonable proximity of uses selling alcoholic beverages and uses where minors are generally present; and, specifically, no such use shall be located within:

a. 1,000 feet of a church or house of worship;

b. 1,000 feet of a public or private school having curriculum including kindergarten or any one or more grades one through 12;

c. 750 feet of an establishment licensed by the Michigan Liquor Control Commission;

d. 1,000 feet of property zoned for any residential use under this ordinance, or a residential dwelling;

e. 750 feet of another adult bookstore, adult cabaret or motion picture theater.

(2) These uses, when permitted, shall, in addition to any other condition of approval required by the planning commission under article 26 hereof, comply and adhere to the following regulations in their daily operation:

a. No person under 18 years of age shall be permitted entry into an adult motion picture theater, adult cabaret or adult bookstore unless accompanied by the parent or legal guardian of such person. For purposes of enforcing this provision, the owner or agent of the person or entity operating the adult use shall require from all persons desiring to enter therein, the display of sufficient identification to ensure compliance with this provision, and for all determinations whether this provision has been satisfied, it shall be the burden of proof of the owner of the adult motion picture theater, adult cabaret or adult bookstore, to show clearly that the display of identification was required and that the identification displayed was sufficient.

b. No person under 18 years of age shall be employed by, or shall otherwise be permitted to be present at, or in, an adult motion picture theater, adult cabaret or adult bookstore.

c. Each and every person desiring to enter an adult motion picture theater shall be expressly verbally advised immediately prior to entry by the owner or agent of the person or entity operating the adult motion picture theater that the display to be presented on such occasion includes the display of specified sexual activities.

Sec. 2125. Fence standards.

The requirements of this section are intended to promote, enhance and maintain the visual appearance, aesthetics and character of the city as well as the safety of the residents and visitors of the city. Fences are permitted in the city, subject to the following standards:

(1) *Permits.* No fence exceeding the height of 18 inches shall hereafter be erected or altered without first obtaining a permit from the city building inspector. A fee shall be paid for each permit applied for, which shall be set by resolution of the city council.

(2) *Restriction on fence construction.*

a. All fences located on property zoned for residential use of either a one-family, two-family or multifamily district shall be not more than six feet in height in any part and shall be subject to the approval of the city building inspector.

b. Fences six feet in height or less may be constructed of a solid material and may be fully obscuring. No sharp spikes, nails or other sharp points or barbed, razor or concertina wire shall be placed on top of any fence.

c. Fences four feet in height or less may be constructed of chainlink. No sharp spikes, nails or other sharp points or barbed, razor or concertina wire shall be placed on top of any fence.

d. No fence over 18 inches in height shall be constructed nearer to the street than the front building lines as established by the zoning ordinance. However, for purposes of this section, corner lots shall have only one front building line, that being the side where the front door is located.

e. Except where a higher height is permitted where a screen wall is required under section 2804, fences located on property zoned for commercial or office uses shall not exceed six feet in

height, shall be decorative in nature, and shall be shown on a site plan for approval by the planning commission. No sharp spikes, nails or other sharp points or barbed, razor or concertina wire shall be placed on top of any fence.

f. Fences constructed on property zoned LI, Light Industrial 1; or RP, Research Technology may be solidly constructed not to exceed eight feet in height, and shall be shown on a site plan for approval by the planning commission. Barbed wire may be installed on the top of such fences or arms or supports projecting over the private property side of the fence and when used shall be at least seven feet above the adjacent grade. Exception: Property adjacent to a public playground or park may be higher with permission of the zoning board of appeals.

g. Fences used in conjunction with outdoor dining are subject to the height, material, color and other requirements and conditions as approved by the planning commission and not subject to this section. Notwithstanding, no nails or other sharp points or barbed, razor or concertina wire shall be placed on top of any fence used for outdoor dining.

h. Fences shall contain no electrical current or charge of electricity.

i. All fences shall be maintained in good condition similar to their condition at [the] time of original construction, including that they be plumb and level. All deteriorated or missing sections shall be replaced.

j. Fences are subject to the corner clearance requirement in section 2100.

k. Properties with outdoor swimming pools, hot tubs and spas must meet and comply with all ordinance and state code requirements for fencing and barriers at all times, including swimming pools with powered safety covers.

(3) *Appeals.* The zoning board of appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the building inspector charged with the enforcement of this section. The zoning board of appeals shall not have the power of its own action to change or amend this section, but it shall have the power to authorize variations in height and extent of enclosure in the single-family residence district whereby the architectural and topographical design of properties warrant more detailed consideration in variation from this section, which in no way is detrimental to the health, welfare or public safety of the surrounding properties and the community at large. The zoning board of appeals shall not have the power to change or amend the decision of the planning commission regarding outdoor dining fencing, nor fencing approved as an element of a site development plan. The zoning board of appeals shall not have the power to grant approval or a variance that would allow a property with an outdoor swimming pool, hot tub or spa without the fencing/barriers required by state codes.

(4) *Nonconforming fences.* The enactment of this section was for the purpose, inter alia, of relocating the fence regulations as set forth in sections 10-91 through 10-95 (of the City Code) into this zoning ordinance, to eliminate the fence viewing board and to transfer appeal authority to the zoning board of appeals. Any fence that was legal under the prior fence ordinance, but would not conform to this section, is to be considered a legal pre-existing nonconforming structure. However, the enactment of this section does not confer legal pre-existing nonconforming structure status to those fences that were not legal under the prior fence ordinance. Nonconforming fences, including repairs and replacement thereof, are subject to article 4 of this zoning ordinance.

(Ord. No. 2009-27, § 2125, 12-21-2009; Ord. No. 2021-09, § 1, 12-20-2021)

Sec. 2126. Bistro standards.

Bistros are permitted as a non-transferable conditional use with the following conditions:

(1) No direct connect additional bar permit is allowed;

(2) Alcohol is served only to seated patrons, except those standing in a defined bar area;

(3) No dance area is provided;

(4) Bistros must have tables located in the storefront space lining any street, or pedestrian passage, unless rooftop or balcony outdoor dining is approved;

(5) All building facades facing a street or pedestrian passage must be at least 70 percent glass, excluding from the calculation any portion of the facade or other features above eight feet from the ground. Such glazing requirement is to be calculated on a square footage basis. However, the planning commission may, in its sole discretion, reduce the glazing requirement under special circumstances, such as the bistro being located in an established structure that does not meet the glazing requirements and a modification would pose a hardship;

(6) All bistro owners must execute a bistro contract with the city outlining the details of the operation of the bistro;

(7) Outdoor dining must be provided, subject to section 2121, and is not permitted past 12:00 [midnight]; and

(8) Bistros are only permitted in the Bistro Overlay District.

(9) Interior seating shall be limited to service of 25—100 persons, with the maximum seating at a bar not to exceed six seats, unless a fewer number of bar seats is deemed more appropriate in the discretion of the planning commission.

(Ord. No. 2010-10, § 2126, 4-26-2010; Ord. No. 2012-11, 8-13-2012)

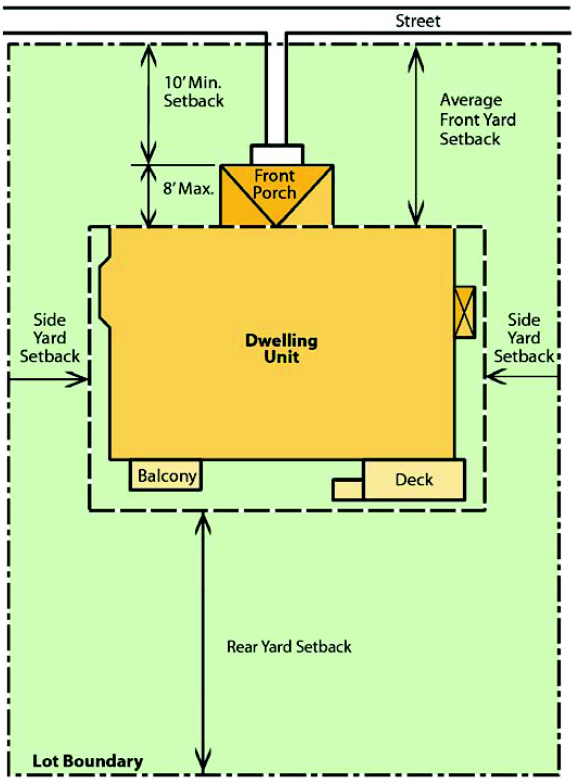
Sec. 2127. Porches in residential districts.

(1) *Definition.* A porch is defined as a roofed-over permanent addition to the front of a principal structure. The porch shall not be enclosed by any peripheral wall coverings or glazed window panels.

(2) *Setback.* A porch can project up to eight feet into the required front yard setback, but shall maintain a minimum setback of ten feet from the front property line. Steps providing access to the porch shall be excluded from the setback requirement (see illustration). For corner lots with wraparound porches, there shall be deemed to be two front yards.

(3) *Size.* A porch must have a minimum depth of six feet.

(4) *Design.* A porch shall be in keeping with the architectural design of the dwelling structure to which it is attached. Further, the design of the porch shall be in keeping with the character of the community.



Permitted Building Projections Into Required Yards

(Ord. No. 2012-10, pt. II, 6-25-2012)

Sec. 2128. Regulated outdoor smoking—Standards.

Outdoor smoking areas may only be permitted as a non-transferable conditional use in the CBD and B-1 Districts and only when incidental to a permitted restaurant or tavern, subject to the following special standards:

(1) Outdoor smoking areas are only permitted immediately adjacent to the principal use on the same property, except as may be expanded into a right-of-way in accordance with subsection (6) of this section.

(2) Properties with outdoor smoking shall comply with all licensing, permitting and inspection requirements of the city code and shall submit annually all required fees with an application for approval.

(3) Outdoor smoking areas shall be kept clean and free from refuse and smoking debris at all times.

(4) All outdoor smoking activity must cease at the close of business. However, when an outdoor smoking area is immediately adjacent to any single-family or multiple-family residential district, all outdoor activity must cease at the earlier of close of business or 12:00 [midnight], unless the planning commission deems a different time more appropriate based on the particular circumstances of the applicant, such as the extent of buffering, odor, sound and lighting reducing efforts, location of the outdoor smoking on the property and its proximity to the residential units.

(5) Table umbrellas shall be considered under site plan review and shall not impede sight lines into a retail establishment, pedestrian flow in the outdoor smoking area, or pedestrian or vehicular traffic flow outside the outdoor smoking area.

(6) For outdoor smoking located in any portion of the right-of-way:

a. All such uses shall be subject to a license agreement from the city, contingent upon compliance with all city codes including all conditions required by the planning commission in conjunction with site plan approval. A copy of the form license agreement may be obtained from the city clerk.

b. After planning commission approval of the conditional use, the proposed license agreement will be forwarded to the city council for its consideration.

c. In order to safeguard the flow of pedestrians on the public walkway, such uses shall maintain an unobstructed sidewalk as required by the planning commission, but in no case less than five feet.

d. No permanent fixtures may be erected or installed in the public right-of-way.

e. Should the right-of-way involved be under the jurisdiction of the state department of transportation or other governmental agency, the owner or operator must obtain any required permits from such department or agency.

f. Insurance must be procured and maintained as required in the license agreement.

(7) All outdoor smoking areas shall have a barricade, fencing, or other means of appropriately separating the smoking areas from pedestrian and vehicular traffic, which shall be considered under site plan review.

(8) Additional off-street parking as set forth in section 2403.c.

(9) Properties with outdoor smoking shall meet all other standards for conditional use approval outlined in article 26 of this ordinance.

(10) Outdoor smoking areas shall be configured in such a way to insure that persons entering or leaving the building or adjacent buildings will not be subjected to smoke, and to insure that smoke does not enter the building or adjacent buildings.

(11) Neither food or alcohol service or consumption shall be permitted in approved outside smoking areas.

(12) Outdoor smoking areas shall be in compliance with all state health department and other governmental regulations at all times, as those regulations may be amended or changed.

(Ord. No. 2013-17, 8-26-2013)

Sec. 2129. Medical marihuana uses.

The city does not allow, and hereby specifically prohibits, any and all commercial and business uses/facilities pertaining to medical marihuana including but not limited to those uses identified in the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., as currently constituted or as may be amended in the future. While the city recognizes that any such uses are only possible if the city has ordinance provisions authorizing any facilities per MCL 333.27205, the city hereby ordains that it is specifically prohibiting any such uses/facilities, regardless of whether an applicant is otherwise eligible to get a license from the state department of licensing and regulatory affairs.

(Ord. No. 2014-12, 12-15-2014; Ord. No. 2017-11, 9-11-2017)

Sec. 2130. Oil and gas wells.

(1) *Purpose and intent.* The city believes that oil and gas exploration, drilling and extraction activities, including horizontal drilling, may pose public health, safety and welfare hazards to its residents without proper regulation. While there are some state and federal regulations in place addressing some of the possible

negatives associated with such activity, the city deems them to be inadequate, and desires to exercise its police and zoning powers to further regulate said activities to the extent not preempted. Further, geological studies and reports show that due to the nature of the subsurface conditions in the Rochester area, hydraulic fracturing (or fracking) processes are unnecessary to extract oil and gas. These findings were confirmed by the oil and gas exploration and drilling companies presenting to the city in its attempts to obtain leases with the city, who went so far as to prohibit these processes from the leases presented. When determining where such activities would have the least amount of impact on its residents and potential areas of concern (i.e., water sources and higher concentrations of people), the RP, and LI Districts were identified as most appropriate. When reviewing the intents and allowable uses in those districts (i.e., radio studios and transmitting towers, public utilities, electric transformer stations, sewage disposal plants, etc.), the city finds that permitted oil and gas drilling activities would be most compatible and reasonably removed from most residential and downtown areas to minimize the negative impacts on its residents.

(2) The drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes shall only be permitted in theRP, Research Park, and LI, Industrial, districts subject to the terms and conditions of this section and shall not be permitted in any other districts. Regulations and limitations in this section 2130 also apply to horizontal drilling activities, with or without surface activities. Further, hydraulic fracturing and/or fracking is expressly prohibited within the city.

(3) *Application*. The applicant shall file an application with the city describing the proposed oil or gas well location and activities. The applicant shall also pay an application/inspection fee, which shall be set by the city council pursuant to a resolution that shall be reviewed annually. No drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes shall occur until the city building inspector has issued a permit and applicant has paid the application/inspection fee.

(4) *Permits and plans to be submitted.* As part of the application, the applicant shall submit to the city a copy of all permits issued by any governmental agency, or applications for said approvals if a permit has not been issued. In addition, the applicant must provide the city a copy of the following at its own cost:

a. Erosion and sedimentation control plan; *

b. Grading plan; *

c. Water management plan; *

d. Water withdrawal plan;

e. Pollution prevention plan;

f. Waste disposal plan; *

g. Timeline and activity schedule;

h. A site restoration plan shall be submitted showing the nature, extent and timelines for site restoration once the well equipment is removed as is required in subsection (12); *

i. A vehicle route as required in subsection (13)c.; *

j. An emergency response plan as required in subsection (13)d.;

k. Distance and testing results for water quality and quantity of surface, water and ground water surrounding the proposed well site or location of the horizontal drilling. The testing consultant must be agreeable to the city and shall certify the results;

l. A survey of the drill site with all on-site associated equipment and/or horizontal drilling location showing locations and distances to property lines, adjacent zoning and uses; and

m. A certified environmental audit performed by a Michigan licensed environmental engineer identifying all actual environmental impacts, all potential threats and impacts, and proper safeguards to eliminate same. Said audit shall include, but is not limited to, air, water and soil quality.

n. A copy of all oil, gas and mineral rights leases/reservations under which authority applicant will be operating.

* These items are not required if surface activity is not involved on the property.

Should the applicant want or need to deviate from any of the plans and documents noted above in any manner for any reason after approval, it is incumbent on the applicant to submit replacement plans or documents to the planning commission for approval before effectuating said changes. This is an ongoing obligation of the applicant.

(5) *Compliance with laws and permit issuance.* The drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes shall be done in conformity with all state and federal laws, statutes, rules, and regulations pertaining thereto, and particularly with the State of Michigan and the regulations of its supervisor of wells. This shall include obtaining the required permits from the supervisor of wells, which permits shall be provided to the city before the city issues a permit under this section. Conformance with state and federal laws, statutes, rules, and regulations including obtaining the required permit from the supervisor of wells shall also apply to, but are not limited to, the plugging of wells and all material used and work done in connection with the exploring for, producing, marketing, and transporting of petroleum products, as well as the disposition and removal of any byproducts utilized and associated with said activities.

(6) *Associated permits and approvals*. The permit required by this section is in addition to and not in lieu of any permit or plan which may be required by any other provision of this zoning ordinance, Rochester City Code, building and fire codes, or by any other governmental agency. Such permit and approval are non-transferable without written consent of the city, and shall automatically terminate if drilling is not commenced within one year from the date of the permit. The applicant may apply for an extension, but the granting of an extension is within the sole discretion of the city based in part on then current conditions.

(7) *Spacing and well setbacks.* In addition to the spacing and setback requirements of the State of Michigan and the regulations of its supervisor of wells, the drilling, completion, or operation of oil or gas wells shall not be located within 1,000 feet, and horizontal drilling lines shall not be located within 500 feet, of a residential zoned building (used for the purposes of residing in), religious institution, public or private school, child care facility, or hospital. The measurement of the setback shall be made from the center of the wellhead in a straight line, without regard to intervening structures or objects, to the closest exterior point of the adjacent building. The measurement for horizontal drilling lines shall be made from the closest part of the drilling line to the closest point of the adjacent building and/or its foundation. The edge of the well pad site (if any) shall meet the minimum building setback requirements of the zoning district or building and fire codes, or 300 feet from any lot line, whichever is greater. The spacing and setback requirements herein are in addition to any, and not in lieu of, required by state law, and may be increased based on physical characteristics of the site, including but not limited to topography, woodlands, and distance from structures, parks, schools, residential areas, and bodies of water or water sources.

(8) *Height*. The completed wellhead structure (if any) shall not exceed 22 feet in height. The temporary drilling derrick/rig shall not exceed 110 feet in height.

(9) *Landscaping*. Staggered 12-foot tall evergreen trees shall be placed around the perimeter of the well site with a minimum landscape greenbelt buffer of 25 feet in depth within 30 days of the removal of the temporary drilling derrick/rig. The landscape buffer and trees shall be irrigated, maintained, and materials replaced if dead. This provision is only applicable if surface activities are involved.

(10) *Lighting*. Site lighting shall be directed downward, internally, and in compliance with all city lighting standards. Notwithstanding any other standard, lumen levels shall not exceed zero foot-candles at any property line abutting a residential use. This provision is only applicable if surface activities are involved.

(11) *Fencing*. Prior to the installation or operation of any well, six-foot high chain-link fencing, wooden slats, or similar fencing/wall material shall be erected around the well site in such a way that prevents access by the general public. The fencing shall be anchored, attached or affixed to the ground, shall be of high quality material, and shall meet all City Code and Zoning Code requirements. The fencing shall be equipped with functioning locks that restrict access to only well operators and emergency personnel. This provision is only applicable if surface activities are involved.

(12) *Restoration*. Upon cessation of the use of the oil or gas well, the operator shall remove all well equipment, underground lines, and any structures related to the oil and gas activities, and restore said area to the same (or improved) condition that existed prior to the start of the drilling activities.

(13) *Nuisance mitigation*. The drilling, completion, or operation of oil or gas wells, or other wells drilled for oil or gas exploration purposes, including any horizontal drilling lines, shall comply with all parts of this Zoning Code, including article 23, performance standards, which address potential nuisances such as noise, smoke, dust, open storage, fire and explosive hazards, odors, wastes, and vibration. Due to the unique nature of this type of operation the following additional information and standards will be required.

a. *Noise*. Prior to the issuance of a permit and the commencement of operations, the petitioner shall submit a noise management plan, as approved by the city, detailing how the equipment used in the drilling, completion, transportation, or production of a well complies with the maximum permissible noise levels of the Zoning Code. The operator shall be responsible for verifying compliance with this section and the noise management plan after the installation of the noise generating equipment. The noise management plan shall include:

1. Identify operation noise impacts;

2. Provide documentation establishing the ambient noise level prior to construction;

3. Detail how the impacts will be mitigated. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:

i. Nature and proximity of adjacent development, location, and type;

ii. Seasonal and prevailing weather patterns, including wind directions;

iii Vegetative cover on or adjacent to the site; and

iv. Topography.

b. *Dust, vibration, and odors*. All operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices defined by the Michigan Department of Environmental Quality (MDEQ) for the production of oil, gas and other hydrocarbon substances in urban areas. All equipment used shall be constructed and operated so that vibrations, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any drilling or production site or from anything incidental thereto, and to minimize the annoyance of persons living or working in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly, or unsafe.

c. *Vehicle routes for truck traffic*. Commercial vehicles and trucks, excluding pick-up trucks, associated with construction, drilling, production operations and transport vehicles shall be restricted to Class A roads designated by the city department of public works. Said vehicles shall have all necessary state and/or federal permits for such uses, a copy of which shall be provided to the city public works director before operation on any city road. A vehicle route map shall also be provided to the public works director in advance and shall not be deviated from without prior approval of said director.

d. *Emergency response plan*. Pursuant to state and federal law, the operator shall provide any information necessary to assist the city fire department and police department with an emergency response plan and hazardous materials survey establishing written procedures to minimize any hazard resulting from the operation.

e. *Waiver of requirements*. The planning commission may waive any of these required showings if deemed inapplicable due to the nature of the activities sought for the particular property.

(14) *Inspection*. The building official, and any other designee of the city manager, shall have the right and privilege at any time to enter upon the premises covered by any permit issued pursuant to this section for the purpose of making inspections thereof to determine if the requirements of this section or of any other code or ordinance of the city are met. The cost of any and all monitoring and inspections conducted by the city shall be borne by the applicant. The failure to pay said costs may result in the revocation of the permit.

(15) *Operator information and incident reporting*. The operator shall notify the city of the following:

a. Any changes to the name, address, and phone number of the operator within five working days after the change occurs;

b. Any changes to the name, address, and phone number of the person(s) designated to receive notices from the city within five working days after the change occurs; and

c. Any "incident reports" or written complaints submitted to the Michigan Department of Environmental Quality (MDEQ), the supervisor of wells, or other regulating agency within ten days after the operator has notice of the existence of such reports or complaints.

(16) *Injection wells*. Injection wells used for brine disposal or other chemicals from production wells or from other sources are expressly prohibited within the city.

(17) *Pipelines*. No operator shall excavate or construct any lines for the conveyance of fuel, water, oil, gas or petroleum liquids on, under, or through the streets, alleys or other properties owned by the city without an easement or right-of-way license from the city.

(18) *Insurance*. No drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration shall occur until the operator provides the city with a copy of operator's certificate of insurance for general commercial liability and pollution/environmental liability in an amount deemed appropriate under the particular circumstances by planning commission, but in any event not less than $2,000,000.00, covering the oil and gas well activities covered under the issued permit. Said insurance shall be placed with an insurance company acceptable to the city and shall remain in place so long as said activities are occurring. A copy of all renewals shall be sent to the city manager at least 30 days before the policy expiration.

(19) *Indemnification and hold harmless*. No drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration shall occur until the operator provides the city with a signed copy of the city's standard indemnification and hold harmless provisions pertaining to any and all activities occurring under the issued permit.

(20) *Cash bond*. No drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration shall occur until the operator provides the city with a cash bond in the amount of $250,000.00 per well and per horizontal drilling location to cover potential damage to roads and city property, and to ensure site restoration. Such bond shall be placed with a bonding company or other financial institution acceptable to the city.

(21) *Notice to adjacent properties*. At least 30 days prior to drilling a permitted oil or gas well and/or horizontal drilling location, the operator shall provide written notice to all property owners within 2,000 feet of the boundaries of the parcel upon which the well will be located, or through which horizontal drilling activities will be located, identifying:

a. The general description of the operations and equipment to be used;

b. Contact information of the operator; and

c. Anticipated duration (hours and dates) of installation.

(22) *Construction.* All drill site construction, grading, and installation of erosion and sedimentation controls shall be done in compliance with the city's regulation of construction activities.

(23) *Violations.* Should any permit holder and/or applicant having received approval as required by this section be determined by the city administration to have either violated this or other city ordinances, permit requirements or any planning commission condition of approval, a presumption shall arise such violation occurred and such persons must show cause before the city council that such a violation did not occur or, alternatively, that circumstances existed which should excuse the violation and/or lack of advanced notice to the city of the deviation. If city council concurs that a violation was committed, it may take any and all actions permitted under the City Code to address ordinance violations including, but not limited to, seeking injunctive relief in the court system and revoking or suspending the permit. Notwithstanding the foregoing, the city may issue an order to immediately stop any offending activities on the site if it deems that waiting for city council to take action is not in the best interest of the public health, safety and/or welfare to do so.

(Ord. No. 2015-07, 4-13-2015)

Sec. 2131. Smoking and smoking retail products regulations.

(a) *Purpose and intent.* On May 1, 2010, the Dr. Ron Davis Smoke-Free Air Law ("Smoke-Free Law") went into effect. The Smoke-Free Law, inter alia, prohibited smoking in numerous types of buildings, and generally including most places of employment. Smoking is defined in section 333.12601(r) of the Michigan Compiled Laws as the burning of a tobacco product. "Tobacco product" is defined in section 333.12601(t) of the Michigan Compiled Laws as a product that contains tobacco, including cigarettes, noncigarette smoking tobacco, smokeless tobacco and cigars. The purpose of the Smoke-Free Law was to preserve and improve the health, comfort, and environment of the public by limiting exposure to secondhand smoke.

At the time of the enactment of the Smoke-Free Law, other types of smoking, such as hookah, vaping and e-cigarettes, were either not in existence, or were in their infancy, or simply not prevalent. Thus, these other forms of smoking may not have been considered for direct inclusion in the Smoke-Free Law as they are not specifically identified therein, other than being applicable if tobacco is utilized. City council has been presented with significant evidence and concern from its police department of the wide use and abuse of such methods of smoking by younger individuals. Such use often involves not always knowing what products, chemicals and substances are being ingested. Having a significant distance between schools and establishments that sell smoking products and equipment is desirable in an effort to reduce the access of such products to underage persons.

The city believes that for the same reasons the Smoke-Free Law was enacted, other forms of smoking in areas that are likely to expose the public to second hand smoke should likewise be prohibited. One such area identified as a like source of second hand smoke is in multiple tenant commercial buildings. In such situations, smoke from adjacent tenant spaces can permeate through ventilation systems, walls, floors and ceilings. Such permeation can lead to negative health environments beyond the walls of the tenant space where the smoking occurs. Thus, for health, safety and welfare of the general public entering such establishments and/or adjacent units, the city believes that smoking of any substance should be prohibited from multiple unit commercial buildings. Single tenant buildings pose less of a concern, not because the substances are less harmful in any way, but persons in single tenant buildings are either the ones utilizing the products or otherwise have the choice to patronize said establishment, whereas employees and invitees of adjacent spaces are not in the same position. Any such regulation in this section is in addition to any other state, federal or local laws that would otherwise restrict or prohibit smoking of any substances. This section is in no way authorizing indoor smoking of any product.

(b) *Prohibition of smoking in multiple tenant buildings.* The city hereby prohibits smoking of any substance and the use of any smoking devices, products and equipment within a multiple tenant commercial, retail or

industrial building. Said prohibition applies whether or not the smoking involves tobacco, and whether or not smoking is intended to be a specific use of the property or simply incidental to an otherwise permitted use.

(c) *Smoking and litter in entrances.* Businesses shall prohibit employees and patrons from smoking within 25 feet of any entrance, open windows or exterior ventilation intake components. Further, businesses shall be responsible for removing all smoking related refuse located on the business property, including from all entryways and other areas open to the public.

(d) *Businesses selling smoking products and equipment.*

(1) *Permitted location.* The wholesale or retail sale of smoking products (including but not limited to tobacco, nicotine substances, hookah, oils, vapor products, and smoking herbs) or smoking equipment (including but not limited to electronic cigarettes, hookah pipes, electronic cigar/cigarillo, vapor cartridge, bongs, rolling papers, etc.) as a principal use is permitted as a general retail use, but is not permitted in a building that fronts or has an address on University Drive or Main Street.

(2) *Distance requirements from schools.* Businesses whose principal use is the selling of smoking products or smoking equipment devices shall not be located within 500 feet of a school (accredited by the state department of education) servicing students (pre-school through 12th grade), Elizabeth Park, Halbach Field, Howlett Park, Municipal Park, Scott Street Park, the Rochester Hills Public Library, or the Rochester Area Recreation Authority as such locations are public areas where a significant number of underage persons are likely to be located.

(3) *Underage admittance.* Businesses whose principal use is the selling of smoking products or equipment shall not permit persons under the age of 18 into said establishment without a parent or guardian.

(4) *Principal use determination.* For purposes of this section, the determination of whether the business's "principal use" is the sale of smoking products or smoking equipment shall be made by the planning commission. Such determination shall be based on various factors including, but not limited to, whether such a sale is a primary or main product being offered for sale, the ratio of likely sales as compared to other products, how the business or products are advertised or offered for sale, city planner information and comments, and information regarding other similar businesses in the area.

(Ord. No. 2018-02, 4-9-2018; Ord. No. 2018-03, 4-9-2018)

Sec. 2132. Temporary sales trailers.

Temporary sales trailers may only be permitted as a non-transferable conditional use and only when incidental to a construction development that has been, or is concurrently being, approved by the city, subject to the following special standards:

(1) Temporary sales trailers are only permitted on the same property as the underlying development absent a sufficient showing to the planning commission that said placement on-site is not practical.

(2) Temporary landscaping in the sales trailer vicinity may be required by planning commission and shall be installed prior to utilization of the sales trailer by the public or contractors.

(3) For placement of temporary sales trailers for more than 30 days, not less than five paved parking spaces must be provided adjacent to the trailer, with at least one being ADA compliant.

(4) Temporary sales trailers must have self-contained bathroom facilities that are part of the trailer (not porta-johns).

(5) Temporary sales trailers shall be permitted for not more than one year from the date of conditional use approval. Extension requests beyond one year must be brought back to the planning commission for re-approval.

(6) The area around the temporary sales trailers must be kept in a safe, clean, and orderly condition at all times. All trash and refuse must be removed off-site by the developer.

(7) Temporary sales trailers must be removed, and the property restored to the original condition (or as may otherwise be approved by the planning commission), within 30 days of the end of the sales period, or by the end of the approved term, whichever occurs first. If any curb cuts were created or modified, the developer shall restore the original condition and configuration.

(8) Developer must post a cash bond with the city in an amount deemed appropriate by the city to ensure that full restoration of the property is completed once the temporary sales trailer is removed.

(9) Off-site temporary sales trailers are not permitted in single family residential districts R-1 through R-5, multiple family residential districts, downtown core district, downtown edge 1 and 2 or the transition district.

(Ord. No. 2018-06, 8-27-2018)

ARTICLE 22. SIGN REGULATIONS

Sec. 2200. Purpose.

(a) It is the purpose of this article 22 to provide for proper identification of businesses and institutions; to enable the public to locate goods, services and facilities without difficulty and confusion; to prevent wasteful use of resources as a result of competition among businesses for attention; to prevent an unsafe, impeded or unpleasant condition to occur on city sidewalks where pedestrians and/or motorists are exposed to moving, distracting, cumbersome or otherwise inappropriate signage; and to promote the continued attractiveness of the City of Rochester and its traditional business district and business and office corridors. It is further determined, following an evaluation of traffic conditions, that to allow an excessive number of signs in the city would be unduly distracting to pedestrians and motorists, thereby creating a hazard for pedestrians and motorists using city streets, and may reduce the effectiveness of signs needed to direct the public on those same streets. The regulations of this article 22 are determined to be the minimum regulations necessary to achieve its purposes.

(Ord. No. 2009-20, § 2200, 10-26-2009)

Sec. 2201. Definitions.

The following words shall have the meaning set forth in this section when they are used in this article 22.

Awning end cap sign means a pedestrian-oriented sign that is applied to the vertical portion of an awning that projects perpendicular to the building.

Clear vision area is formed by two lines each 25 feet long measured along the right-of-way from the point of intersection of two streets and connected by a third line to form a triangle.

Corner building means a building with frontage on any two streets or a building at the corner of any street with the West Alley or the East Alley in the downtown.

Display window shall include any window area designed to permit customers outside the building to view merchandise inside a store or that displays store merchandise in a specially designed area immediately inside the window glass, whether or not the rest of the store interior is visible.

Hanging sign means a pedestrian-oriented sign that is hung beneath a canopy or awning.

Icon sign means a pedestrian-oriented sign that advertises a particular good or service by of a symbol associated with that good or service, i.e., a mortar and pestle to represent a pharmacy.

Illuminated tube means a transparent tube in which the light source is supplied by electrified gas.

Illuminated tube band means an illuminated tube, such as but not limited to neon, fluorescent, and the like, which is located on a window, architectural feature, or which is shaped, formed or located to outline or accent an area of a sign, window or structure. An illuminated tube band shall constitute a sign.

Illuminated tube sign means a sign which is illuminated wholly or in part with illuminated tube.

Ladderboard sign means a sign for a single tenant space or a multi-tenant building that lists goods, services, and the like on a series of separate panels which may or may not be changeable. A ladderboard sign shall also include a sign for a multi-tenant development with separate identification panels for more than three tenants.

Master sign plan means a drawing or set of drawings for a multi-tenant building that sets forth the general size, location, number, height, material types, illumination details, messages, and shapes of the signs capable of displaying the name of the development and the names of the individual tenants.

Multiple street frontage (other than corner buildings) means any building on a double frontage lot or any building with frontage on one street as well as the East Alley or West Alley in the downtown.

Multi-tenant building means any office, retail, or industrial building with two or more separate tenant spaces.

Multi-tenant sign means a sign for a multi-tenant building displaying only the names of not more than three tenants.

Nameplate sign means a permanent, non-illuminated, identity sign, used to direct customers to the entrance of a Main Street business in the CBD zone that is only accessible from a side of the building other than the one on which the sign has been placed.

Pedestrian-oriented sign mean a sign that is oriented or scaled to the pedestrian rather than the motorist, such as hanging, projecting, icon, and awning end cap signs.

Permanent window and door signs refers to signs affixed or painted in a manner that is visible from the exterior of the building intended to exist for the duration of time that the use or occupant is located on the premises. Any sign located within the store within four feet of the display windows shall be considered a window sign.

Projecting sign means a pedestrian-oriented sign that projects perpendicular from a building.

Replacement sign means the lawful replacement of a sign panel within an existing sign or sign structure that does not increase sign area or otherwise modify the size of the sign.

Signable area means the spaces on the building facade with a continuous flat surface, void of windows, doors, or architectural details and typically found between the top of the first floor windows and the bottom of the second floor windows or between the roof cornice and the top of the windows below.

Temporary and permanent banners refers to any plastic film, paper, cloth or similar material and its associated message area that is designed to be tied, or otherwise fastened to a building or other structure so as to constitute a sign.

Temporary sign shall mean any sign constructed of cloth, canvas, fabric, plastic, paperboard or other light temporary materials, with or without a structural frame, or any other sign, intended or suitable for a temporary or limited period of display.

Temporary window sign means any paper, poster board, plastic film, cloth or similar material and its associated message area that is designed to be placed on or behind a display window for 14 days or less and visible from outside a business building.

Temporary political sign means any sign the display surface of which is primarily constructed of cloth, canvas, fabric, paper board or other light material intended or suitable for only a temporary period of display, and advertising a candidacy for political office or a proposition to be voted upon.

Window means any opening in any wall of a building or structure for the admission of light, made of a transparent, translucent, or opaque material, through which or upon signage may be viewed or placed. The term shall specifically include display windows as herein defined.

(Ord. No. 2000-06, pt. 1, 7-24-2000; Ord. No. 2008-02, art. 1, 1-28-2008; Ord. No. 2009-20, § 2201, 10-26-2009; Ord. No. 2016-12, 9-26-2016)

Sec. 2202. General requirements.

The following general requirements shall apply to all signs in every zoning district within the City of Rochester.

(1) Only on-site signs are permitted.

(2) The calculation of sign surface area shall include: the sign frame; any sign member or support which is illuminated or bears advertising matter, symbols, logos, or similar decorations associated with the business identified thereon. For a multiple sided sign for which a total allowable sign area limitation exits, the total surface area for all sides of the sign is included when determining whether such sign is permitted.

(3) Every sign shall be effectively attached to a building, other permanent structure, or the ground with the exception of permitted portable signs.

(4) All illuminated signs shall be so placed as to prevent the rays and illumination therefrom from being cast upon neighboring residences within a residential district and shall be located not less than 100 feet from such residential district.

(5) The color saturation and hue of illuminated signs shall be such as to preclude confusion with traffic signals.

(6) All signs shall conform to the regulations as set forth in this ordinance, and any sign or billboard not conforming thereto shall be deemed a nonconforming structure subject to the provisions of article 4.

(7) No sign shall be located or placed on any property or building in a manner that interferes with the driver of an automobile having proper visibility of pedestrians or automobile traffic.

(8) No sign, except those for emergency service purposes established and maintained by the city, county, state or federal government, shall be located in, project into, or overhang a public right-of-way or dedicated public easement, except as provided in section 2207 for signs in CBD and B-1 districts and in section 2211(11)b. The city manager is authorized to cause the removal of any signs posted or placed in any public right-of-way, provided any such sign shall be kept for a period of 60 days for pick-up by any person who might claim it, and thereafter may be destroyed by the city.

(9) All emergency service purpose directional signs required for the purpose of orientation, when established by the city, county, state or federal government, shall be permitted in all use districts, and may exceed six feet in height.

(10) Because they are designed to attract the customer's attention, illuminated tube bands and illuminated tube signs are signs as defined herein and shall cause the entire surface area of the sign, window or other area outlined by illuminated tube to be included in calculations of sign area unless:

a. The illumination tube is located only along one side of a display window or opening; or

b. The illuminated tube is enclosed or shielded so that it serves as a light source to illuminate merchandise or an architectural feature but is not a primary attraction itself.

All illuminated tubes shall be detailed on building elevation plans for site plan review and on all plans included in any application for a sign permit.

The sign official, during the review of the site plan and proposed signage, may review any illuminated tube to ensure compatibility with the design of the proposed structure(s) and of those in the general vicinity. The sign official may require modification to the design, location, size, color or intensity of proposed illuminated tube to ensure compatibility with on-site or adjacent buildings or uses. The sign official shall adhere to the criteria in sections 2202(11) and 2704(2) when reviewing plans for conformance with this section.

(11) Materials chosen and design selected for signs shall be consistent with the architectural design of the building they identify.

(12) All signs shall be maintained in a condition similar to that which existed at the time of their erection. At the least, all signs and all awnings with sign components shall be kept clean, free of missing or loose parts, free of blistering or peeling paint, and without missing or obsolete sign panels.

(13) All sign owners shall complete a form, provided by the city, indicating the name, address and phone number of the person responsible for maintenance of the sign. At the request of the city, any sign owner shall update the information provided on this form from time to time.

(14) Freestanding signs shall be set back at least ten feet from all lot lines except for traffic control signs in parking lots. The maximum height of all freestanding signs shall be six feet, unless otherwise provided in this article 22.

(15) Entire awnings shall not function as signs. Awnings shall not be backlighted. Illumination of signs on awnings shall be by means of external, downward-directed light fixtures. Nothing in this article shall prohibit awnings that incorporate a logo, name, or panel identifying the business use, provided it conforms with all other requirements for signs contained in this ordinance.

(16) When a sign is to be replaced, it shall thereafter conform to all requirements of the zoning ordinance. This shall not prevent the lawful continuance of nonconforming signs that were legally established prior to the current requirements of the zoning ordinance and/or the sign design guidelines. The following provisions shall apply to replacement of panels and signs intended to replace nonconforming signs:

a. The owner of a nonconforming sign may replace a panel or face of the sign in order to identify a new tenant or occupant from the same use category provided the sign is not enlarged or otherwise made more nonconforming. Approval of replacement panels may be granted by the sign official, if they conform to the city ordinances and administrative guidelines established from time to time by the planning commission. All signs located within the Downtown Development District shall also require review by the DDA director.

b. The replacement of a nonconforming sign or signs with a sign that conforms to the current requirements of the zoning ordinance and the sign design guidelines may be approved by the sign official, following review by the DDA director if the sign is located within the DDA district.

(17) No sign shall be erected within the clear vision area.

(18) One sign shall be permitted at each point of ingress and egress to a parking lot to indicate the operator, parking rates, and directions of movement. Each such sign shall not exceed ten square feet in area, shall not extend more than four feet in height above grade, and shall be entirely on the parking lot property.

(19) All signs that are obsolete, due to discontinuance of the business or activity advertised thereon, shall be removed within 30 days of the close of said business or activity.

(20) The above regulations apply to signs in all districts. Where the district regulations below establish more stringent requirements, they shall apply.

(Ord. No. 2009-20, § 2202, 10-26-2009; Ord. No. 2010-12, § 2202, 5-10-2010)

Sec. 2203. Prohibited signs and sign features or components.

The following signs are prohibited, notwithstanding anything to the contrary in this ordinance:

(1) Signs which incorporate in any manner or are illuminated by any flashing or moving lights, or where any illumination can shine directly into the eyes of any occupant of any vehicle traveling upon any highway, driveway or parking area, or into any window of any residence within 200 feet, or where the illumination interferes with the visibility or readability of any traffic sign or device.

(2) Exterior banners, pennants, strings of flags, spinners and streamers. Temporary banners for city-sponsored events are exempt from this requirement when posted 45 days or less.

(3) Exterior string lights used in connection with a commercial premises, other than holiday decorations used from the day after Thanksgiving through the following January 15.

(4) Any sign which has any visible motion, moving or animated parts or image, whether movement is caused by machinery, electronics, wind, or otherwise, except for minor elements of clocks or thermometers.

(5) Any sign which is structurally or electrically unsafe, or which obstructs any fire escape.

(6) Any sign erected on a tree or utility pole except signs of any political subdivision of this state.

(7) Any business sign, sign structure or frame now or hereafter existing which no longer advertises a bona fide business conducted or a product offered for sale, or no longer contains a sign.

(8) Portable signs. Any freestanding exterior sign not permanently anchored or secured to either a building or the ground, including sandwich boards, plastic message boards on wheels, and the like, except as permitted by section 2207(3)e. Temporary portable signs for city-sponsored events are exempt from this requirement when posted three days or less.

(9) Any sign on a motor vehicle or trailer which is parked at a location visible from a public street and intended to attract attention for the business, product or service identified on the sign.

(10) Roof signs or any sign which projects more than one foot above the roof line.

(11) Any sign erected on any property, public or private, without the consent of the owner or occupant thereof.

(12) Any sign which simulates or imitates in size, color, lettering, or design, any traffic sign or signal or other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse the drivers of motorized vehicles.

(13) Any sign which incorporates any open spark or flame unless specifically approved by the building department.

(14) Phone numbers on signs, except on temporary "For Sale" or "For Lease" signs.

(15) Backlighted awnings.

(16) Entire awnings designed as signs.

(17) Message board signs except as provided in section 2209.

(18) Pylon or pole-mounted signs.

(19) Ladder board signs.

(Ord. No. 2006-12, 11-28-2006; Ord. No. 2009-20, § 2203, 10-26-2009)

Sec. 2204. Permitted signs in residential districts.

In residential districts, signs are permitted as follows:

(1) For conditional uses in one- and two-family districts: one sign not exceeding 20 square feet in area.

(2) For principal uses in mobile home park and multiple-family districts (such as an apartment or condominium complex): one sign not exceeding 30 square feet in area.

(3) For public buildings, churches, schools and other institutional buildings in residential districts the provisions of section 2209 apply.

(4) For subdivision developments: one permanent subdivision identification sign not exceeding 30 square feet in area. The sign official may approve additional subdivision entrance signs where it finds affirmatively to at least one of the following criteria:

a. The subdivision has principal entrances from two or more major arterial streets.

b. The subdivision has more than one boulevard street entrance from an existing arterial.

c. The subdivision is physically divided by an existing major arterial street.

d. Major entrances from the same arterial street are separated by at least 330 feet.

(5) For new residential developments: one temporary sign advertising the sale of dwellings therein not exceeding 50 square feet in area. Permits for temporary development signs shall expire after two years or when the last unit is sold, whichever shall occur first, and shall require a cash performance deposit of $100.00 to guarantee removal of the sign.

(6) One trespassing, safety, or caution sign not exceeding two square feet in area shall be permitted for each 200 lineal feet of perimeter lot line.

(Ord. No. 2009-20, § 2204, 10-26-2009; Ord. No. 2010-12, § 2204, 5-10-2010)

Sec. 2205. Permitted signs in limited office (O-1) and restricted office (O-2) districts.

In O-1 and O-2 districts, signs are permitted as follows:

(1) One primary business identification sign per building.

(2) Window accent signs for permitted retail businesses subject to section 2207(3)c.

(3) Total allowable sign area, per building, shall be 15 square feet for a one-sided sign and 30 square feet for a two-sided sign. The larger side of a two-sided sign shall not exceed 15 square feet. This requirement may only be modified by sections 2208(b) and 2208(c) of this ordinance.

(4) Any illuminated sign shall have the illumination source completely enclosed within the sign, unless the lighting equipment is designed as an integral part of the display. This means that the lights themselves are not visible and will in no way interfere with driver visibility or project onto adjoining property.

(Ord. No. 2009-20, § 2205, 10-26-2009)

Sec. 2206. Permitted signs in research park (RP) and industrial (LI) districts.

In RP and LI districts, signs are permitted as follows:

(1) One business identification sign per building.

(2) Window accent signs for permitted retail businesses subject to section 2207(3)c.

(3) The total surface area of all signs per building, including advertising signs in parking lots, shall not exceed ten percent of the wall surface area facing the front lot line or 100 square feet, whichever is less. This requirement [may only be modified by] sections 2208(b) and 2208(c) of this ordinance.

(Ord. No. 2009-20, § 2206, 10-26-2009)

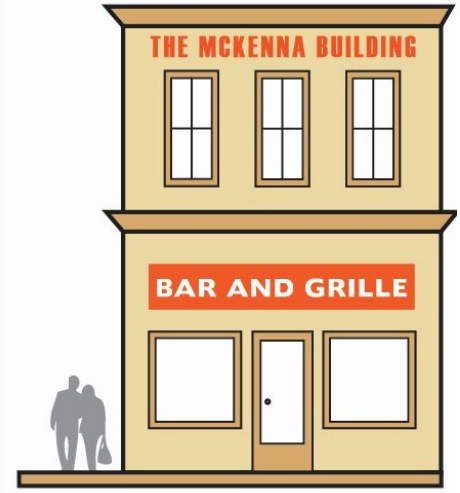
Sec. 2207. Permitted signs in CBD, DE-1, DE-2, T, MU, MU-1, and B-1districts.



Window Sign



Awning Face Sign



Wall Sign

PRIMARY & SECONDARY BUSINESS SIGNS

In CBD, DE-1, DE-2, T, MU, MU-1, and B-1 districts, signs are permitted as follows:

(1) One primary business identification sign per building.

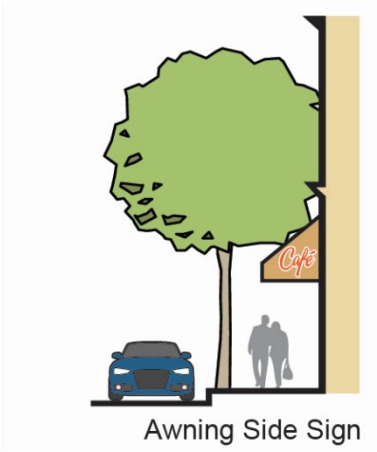
Permitted types of primary business identification sign:

Sign Type	*B-1*	*CBD*	*DE-1*	*DE-2*	*T*	*MU*	*MU-1*
Wall sign	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted
Awning sign	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted
Window sign	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted
Freestanding sign	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted

In the CBD, DE-1, DE-2, T, MU, MU-1, and B-1 districts, an individual business may have a freestanding sign only if the business occupies the entire building or if it is one of three tenants displayed on an approved multi-tenant sign.

(2) One secondary business identification sign per building with a separate side or rear customer entrance as permitted by sections 2208(b) and 2208(c) of this ordinance.

(3) Subordinate signs as follows:



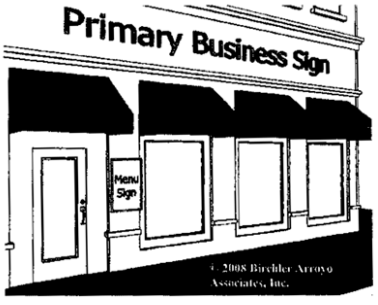
Awning Side Sign



Projecting Sign



DOOR SIGN



MENU SIGN

a. One permanent pedestrian-oriented (hanging, projecting, icon, or awning end cap) sign per customer entrance. Each permanent pedestrian-oriented sign shall not exceed four square feet in

area per side (maximum eight square feet total for both sides), and must be at least seven feet above the sidewalk.

b. One door sign per customer entrance to convey the name of the premises, the name of the owner and/or the occupant of the premises, street number and address, phone number, hours of operation, credit cards accepted and similar information. Each door sign shall not exceed two square feet in area and shall be exempt from the calculation of total allowable sign area. The door sign may be lettering applied to the glass or may be a panel affixed to the door or on the wall within 12 inches of the door.

c. Window accent signs may be permitted on the same sides of the building as the approved primary and/or secondary signs to either identify the business name, products, and services of the primary business or identify the name of a second business that is owned/operated from the same premises, as follows:

1. Window accent signs used to identify the primary business name, products, and services of the primary business shall comply with the following:

(i) Letter height shall not exceed eight inches.

(ii) The number of lettering styles should be limited and simple typefaces shall be used.

(iii) Message shall include not more than two lines of copy.

(iv) No message may be mentioned more than once per elevation. The sign official may issue a waiver to allow redundancy where it is determined that the quality of the sign is not negatively impacted.

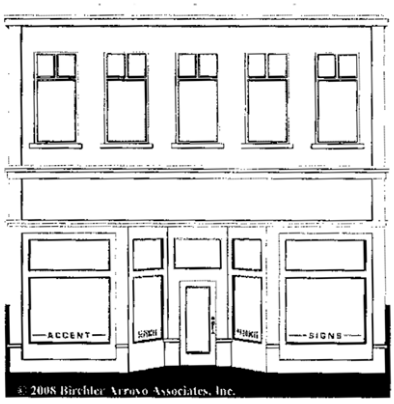
(v) Message shall be placed only within the top 25 percent or bottom 25 percent of any window.

(vi) Window accent signs shall not exceed ten percent of each individual window up to a maximum of eight square feet per window and a total of 25 square feet per building facade.

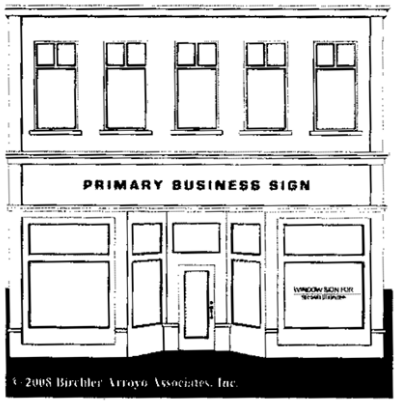
WINDOW ACCENT SIGNS



WINDOW ACCENT SIGN PLACEMENT
(for primary business)



ACCENT WINDOW SIGN
(for primary business)



WINDOW ACCENT SIGN
(for secondary business

2. Only one window accent sign used to identify the name of a second business that is owned/operated from the same premises by the primary business owner/operator may be permitted on the same building facade.

3. All window accent signs shall be designed and located in a manner that will enhance the appearance of the business and shall comply with the following:

    (i) All window signs shall not exceed ten percent of the total area of all windows located on the same side of the building up to a maximum of 25 square feet per building facade.

    (ii) Allowable colors include only black, white, gold or a combination of not more than two of these colors. Corporate logos and graphic designs using different colors shall be considered on a case by case basis. The sign official may evaluate the colors based upon compatibility with the design of the building and window displays, and visibility and legibility of the information proposed.

    (iii) All window signs shall consist of high quality durable materials. Floating neon, applied vinyl, etched glass and painted images with appropriate design features shall be considered.

    (iv) Window signs shall not obscure the visibility of the store interior or its merchandise displays.

    (v) Phone numbers are prohibited.

    (vi) Borders around or adjacent to and backgrounds behind window sign lettering shall count toward the total sign area.

d. One menu sign per approved restaurant with table service as follows:

    1. Menu signs shall be located in a permanently mounted display box on the surface of the building adjacent to the entry.

    2. Menu display boxes shall be constructed of high quality materials, and their size, location, and design shall be appropriate to the character and architectural detail of the building and the character of the restaurant.

    3. Menu signs, including display box, shall not exceed six square feet in area.

e. One portable pedestrian-oriented sign per building in the CBD District as follows:

1. Portable pedestrian-oriented signs, such as A-frame or sandwich board signs, shall be of one of the following designs: wooden or metal A-frame signs with open bases or shaped silhouette signs made of wood, metal, or similar durable material. Glass, breakable materials, paper, laminated paper, vinyl, plastic, PVC pipe frames, and the like are not permitted materials.
2. Portable pedestrian-oriented signs shall be uncluttered with minimum text. Logos and graphics are encouraged.
3. Portable pedestrian-oriented signs shall not be permanently affixed to any object, structure, or the ground.
4. Portable pedestrian-oriented signs shall not exceed four feet in height nor eight square feet in area.
5. A minimum walking path of five feet shall be maintained on all public sidewalks.
6. Portable pedestrian-oriented signs shall be taken indoors at the close of each business day.

f. One nameplate sign per business located in a building fronting on Main Street, including the East Alley and West Alley, within the CBD Zoning District, subject to the following:

1. Nameplate signs shall be located on either the Main Street or Alley side of a building, placed between five and seven feet above the sidewalk and shall not be located on the same side of the building as the entrance to the business.
2. Nameplate signs shall be used to identify only the name and location of the business. Location information may include the address, entrance in rear, entrance from Alley, entrance from Main Street, or the like.
3. Nameplate signs shall be a standard size of 12 inches high by 12 inches wide, constructed of bronze relief, with standard raised black lettering and shall be ordered from a private vendor, coordinated through the Rochester Downtown Development Authority.
4. Placement of more than one nameplate sign on a given building shall require approval of the city administration.

(4) The total surface area of all signs per building, including advertising signs in parking lots, shall not exceed ten percent of the wall surface area facing the front lot line or 100 square feet, whichever is less. This requirement may only be modified by sections 2208(b) and 2208(c) of this ordinance.

(5) A primary or secondary business sign attached to the front wall of a building may project not more than one foot into the public right-of-way. Approved pedestrian-oriented signs and approved signs located on awnings are exempt from the one-foot limit.

(Ord. No. 2000-06, pt. 2, 7-24-2000; Ord. No. 2008-02, arts. 2—4, 1-28-2008; Ord. No. 2009-20, § 2207, 10-26-2009; Ord. No. 2010-12, § 2207, 5-10-2010)

Sec. 2208. Additional standards for signs in all nonresidential districts.

(a) *Multi-tenant buildings.* All multi-tenant buildings in nonresidential districts shall submit a master sign plan as part of their site plan approval package. The master sign plan shall demonstrate the following characteristics:

(1) Any freestanding sign shall be designed primarily for identification purposes and shall display only the development name and/or address. The freestanding sign may display only the names of not more than three tenants. Freestanding signs are prohibited in the CBD District.

(2) Where individual tenants have their own front wall surface, the individual business signs shall be wall-mounted, in a consistent fashion throughout the multi-tenant building.

(3) Shall not include traffic-oriented signs with large amounts of information.

(4) Directory signs, located at common entrances to tenant spaces, are encouraged, however, they shall be included in the calculation of total sign area unless they are six square feet or less and not visible from the front lot line.

(5) Total sign area shall not exceed 150 square feet for multi-tenant buildings with more than 60 lineal feet on the front wall of the address side.

(b) *Corner buildings.* Corner buildings, as defined herein, may have two times the sign area permitted for the shorter street frontage or 100 percent of the sign area permitted for the street frontage on the address side, whichever is greater, provided:

(1) There is a second customer entrance at the side or the rear; or

(2) There are merchandise display windows along the side street; and

(3) The bonus sign area shall be used for additional identification on the side street or at a rear customer entrance, not to enlarge the primary sign; and

(4) Total sign area shall not exceed 100 square feet.

(c) *Other buildings with multiple street frontage.* Other buildings with multiple street frontage, that is buildings other than corner buildings which buildings have frontage on one street and a public alley or double-frontage lots as defined in this zoning ordinance, may calculate allowable sign area as follows:

(1) If the building has front and rear customer entrances, then 100 percent of the front street wall area may be counted plus 25 percent of the rear (secondary) street wall area; or

(2) If the building has front and rear customer entrances and rear display windows then 100 percent of the front street wall area may be counted plus 50 percent of the rear (secondary) street wall area; and

(3) The bonus sign area shall be used for additional identification at the rear customer entrance, not to enlarge the primary sign; and

(4) Total sign area shall not exceed 100 square feet.

(d) *Two-story business buildings.* Two-story business buildings shall reserve two-thirds of their allowable sign area for tenants on the first floor and one-third for tenants on the second floor.

(e) *General requirements.* All business signs shall comply with the color, materials, lettering, content, legibility, and signable area requirements of the City of Rochester sign design guidelines.

(f) *Temporary window signs.* Not more than 25 percent of the area of any window shall be occupied by temporary window signs. Temporary window signs shall be placed only within the top 25 percent or bottom 25 percent of any window. No temporary window sign shall be displayed for longer than 14 days nor shall it be used solely to display a product name nor shall the same message be displayed more than four times each year. Temporary window signs shall be permitted only for one of the following purposes:

(1) Temporary new business announcement. Temporary new business announcements only may be displayed longer than 14 days if the business is open and while their current sign permit application is pending.

(2) An advance announcement of a new business, such as an "opening soon" message.

(3) Announcements for special sales, promotions, events or new services.

(4) The following shall be exempt from the requirements of this ordinance: all standard, uniform signs announcing a city-sponsored event or promotion only if distributed by the city in cooperation with the downtown development authority and/or the downtown promotions committee.

(Ord. No. 2005-05, 7-11-2005; Ord. No. 2006-12, 11-28-2006; Ord. No. 2008-03, 2-25-2008; Ord. No. 2009-20, § 2208, 10-26-2009; Ord. No. 2010-12, § 2208, 5-10-2010)

Sec. 2209. Signs for churches, schools, public and institutional buildings in all districts.

Public buildings, such as schools, city offices, libraries, community centers and other institutional uses shall comply with the following regulations in all zoning districts:

(1) Permanent signs that are part of the structure, such as engraved stone panels, cast bronze plaques and the like, may occupy not more than ten percent of the front wall surface area, to a maximum of 100 square feet.

(2) Freestanding signs and wall-mounted signs shall not exceed 30 square feet in residential zones and 50 square feet in all other districts.

(3) Public and institutional building signs located within 100 feet of an occupied residence may be illuminated during the public building's hours of operation only with the approval of the sign official. The occupants of the residences within 100 feet of the public building site shall be notified when a request for an illuminated sign has been received.

(4) If a public or institutional building requires a changeable message board, it shall be incorporated as part of the permanent sign.

(Ord. No. 2009-20, § 2209, 10-26-2009; Ord. No. 2010-12, § 2209, 5-10-2010)

Sec. 2210. Sign permit application requirements.

(a) All applications for sign permits shall be made on forms provided by the sign official and shall contain the following minimum information:

(1) A sketch indicating the location of the subject property and current zoning classification.

(2) A calculation of total allowable sign area and description of the methodology used.

(3) A scale drawing of each sign, in the colors of the finished sign, indicating the size, shape, message, lettering style, and materials of the finished sign. All required copies must also be in color.

(4) Building elevation sketches showing the position and size of each sign on the building and the location and size of any existing sign(s) on the same structure.

(5) For freestanding signs, a site plan sketch showing the sign height, location of the sign on the site, and verifying compliance with all setback requirements.

(6) If the sign will be illuminated, details regarding the location, type of fixture, color of the illumination, and method of shielding the lighting equipment to prevent glare.

(b) A master sign plan is required for new development and changes in use that require site plan approval for all multi-tenant buildings, and may be submitted by the property owner and/or 51 percent or more of the tenants of an existing building. All master sign plans shall include the following minimum information:

(1) All information required in section 2210(a).

(2) A proposal describing how and when existing tenants, whose signs are not consistent with the master sign plan, will be brought into conformance.

(c) All signs must be approved by the sign official either in conjunction with site plan or master sign plan approval, or as a separate sign permit application, unless otherwise provided for in this zoning ordinance. All signs within the Downtown Development District boundaries must also be reviewed by the downtown development director.

(d) The sign official may approve sign panel replacements, signs covered by an approved master sign plan, and signs with an area of six square feet or less in nonresidential districts.

(e) The Rochester DDA director is available to meet with applicants and assist them with design review, color and material selection and explanation of design guidelines for all sign applications, among other services. The sign official will provide application materials and instructions.

(Ord. No. 2009-20, § 2210, 10-26-2009; Ord. No. 2010-12, § 2210, 5-10-2010)

Sec. 2211. Signs allowed without a permit.

The following signs are allowed to be erected or maintained without a permit provided they comply with the following regulations and applicable construction standards of common carriers.

(1) Signs posted by duly constituted public authorities in the performance of their public duties.

(2) Signs located on the rolling stock of common carriers.

(3) Signs located on motor vehicles or trailers bearing current license plates which are traveling or lawfully parked upon public highways, or parked upon any premises where the primary purpose is not the display of the sign.

(4) Portable real estate signs of six square feet or less and a maximum height of six feet, limited to one per road frontage, and advertising the sale, lease or rental of the premises on which erected.

(5) Portable real estate "open house" signs with an area not greater than six square feet and a maximum height of six feet, provided only one such sign may be located on the premises being sold.

(6) Signs for garage sales, yard sales, basement sales, rummage sales, moving sales, estate sales or other similar sales, when conducted at a residence: may be erected on private property only; are limited to two signs per sale location; may not exceed six square feet or four feet in height per sign; may not be erected for more than 12 days in any calendar year per sale location; and may not occupy a public right-of-way.

(7) A single sign for each customer entry, having an area not more than two square feet, to convey only the street number and address, hours of operation, credit cards accepted and similar information shall be exempt from the calculation of total allowable sign area.

(8) On-premises temporary window signs located inside and visible through the windows of an enclosed building, where the area of such signs does not exceed 25 percent of the window in which they are displayed, and where the display will not last longer than 14 days.

(9) Wall signs not exceeding six square feet and indicating only the date of erection of a building.

(10) The flag of any nation, state political subdivision, or governmental entity respectfully displayed.

(11) In addition to all other regulations in this article, temporary signs are permitted under the following additional conditions:

a. Temporary signs shall not be illuminated.

b. Temporary signs shall not be placed in or project into a public right-of-way.

c. Temporary signs shall only be placed on private property with the permission of the property owner.

d. Temporary signs shall have a maximum of six square feet per side, 12 square feet total for each side of the property that abuts a street.

e. Temporary signs shall not be placed in such a manner as to obstruct the view of vehicle drivers when leaving or entering a street, driveway, alley or parking space.

f. Temporary signs may not be painted on the exterior surface of any building or structure.

g. Temporary signs may not be placed closer than ten feet to the right-of-way of any street, nor shall they extend in height more than six feet above the front lot line.

h. Temporary signs may be displayed for a single 60-day period per calendar year.

i. Only one of the same temporary sign shall be permitted on each side of a property that abuts a street; multiple, repetitive temporary signage on a side of a property shall not be permitted.

j. This subsection does not supersede provisions for other signage specifically regulated in this article including, but not limited to, portable signs, temporary window signs, real estate signs and garage/yard sale-type signs.

(12) A single, temporary construction sign is permitted during actual construction in any district subject to the following:

a. A building permit is required prior to installation of all temporary construction signs. In nonresidential districts, all construction signs shall comply with the maximum sign area, maximum height, placement, and setback requirements for permitted accessory signs in the zoning district in question.

b. In residential districts, temporary construction signs for an individual residence shall not exceed a total sign area of six square feet for a one-sided sign or 12 square feet for a two-sided sign.

c. Temporary construction signs for a residential development of two or more units shall not exceed 12 square feet for a one-sided sign or 24 square feet for a two-sided sign.

d. All temporary construction signs shall be removed when construction ceases for 90 days or after a certificate of occupancy has been issued.

(13) In nonresidential districts, signs advertising buildings for sale or for lease shall comply with the following:

a. Buildings for sale or for lease may display one sign per street or alley upon which the building fronts; however, no building shall display more than two such signs.

b. Freestanding for sale or for lease signs shall comply with all setback requirements established for permanent signs.

c. Signs regulated by this section may include one square foot of sign area per foot of street and/or alley frontage, to a maximum of 30 square feet per sign.

d. Buildings with individual leasable units facing a street or alley may have one sign on the face of each leasable unit, subject to the size limitation of subsection (13)c of this section.

e. Freestanding signs regulated by this section shall not exceed six feet in height. Signs attached to the building shall not project above the roof by more than one foot.

f. Permanent signs advertising space available for lease or rent shall be displayed flat against the wall of the building and shall not exceed six square feet.

(14) Ambulatory signs, located on or carried by a person, are permitted provided the following standards are adhered to:

a. An ambulatory sign shall be no wider than 30 inches nor taller than 48 inches, in order to prevent it from becoming a hazard on the public sidewalk or to the person carrying the sign.

b. An ambulatory sign shall not be fastened to a pole or similar device designed to permit the person carrying the sign to raise it above that person's shoulder height or to wave or otherwise move the sign in a manner that might be dangerous to persons on the public sidewalk or on the public streets.

c. An ambulatory sign shall not be carried in a manner that effectively blocks or interferes with another person's use of a public or private sidewalk.

d. An ambulatory sign shall not be carried in a manner that effectively blocks or interferes with the clear vision area at any intersection of two streets or a street and a driveway.

e. An ambulatory sign shall not be carried in a manner that effectively blocks the entrance to or exit from any building.

f. An ambulatory sign shall not be carried in a manner that constitutes an offense, an annoyance or causes injury to pedestrians on the public sidewalk or drivers on the public streets.

(Ord. No. 2008-02, art. 5, 1-28-2008; Ord. No. 2008-03, § 2205, 2-25-2008; Ord. No. 2009-20, § 2211, 10-26-2009; Ord. No. 2016-12, 9-26-2016)

Sec. 2212. Review, approval and appeals.

(a) All signs must be approved by the sign official, who shall be appointed by the city manager. All signs within the Downtown Development District boundaries must also be reviewed by the downtown development director, who shall advise the sign official of any comments or concerns the director may have. Should an applicant wish to have the planning commission review the sign request after denial by the sign official, the applicant shall file such request with the planning commission within 15 days of the sign official's decision. Such a review by the planning commission shall be a full review of the sign application and not an appeal of the sign official's decision. All appeals from the planning commission's decision, and all requests for variances from the sign ordinance requirements, shall be made to the zoning board of appeals within 20 days of the planning commission's decision on the sign application. Such appeal or request for a variance shall be pursuant to section 3001 [of the zoning ordinance].

(Ord. No. 2010-12, § 2212, 5-10-2010)

ARTICLE 23. PERFORMANCE STANDARDS

Sec. 2300. [Activity or operation producing irritants to sensory perceptions.]

(a) It shall be unlawful to carry on or permit to be carried on any activity or operation or use any land, building, or equipment that produces irritants to the sensory perceptions or other physical results greater than the measures herein established which are hereby determined to be the maximum permissible hazards to humans or human activities. Such measures may be supplemented by other measures which are duly determined to be maximum permissible hazards to humans or to human activity.

(Ord. No. 2012-16, 11-12-2012)

Sec. 2301. Sound.

(a) At no point on the lot line shall the sound pressure level of any operation on the lot (other than background noises produced by sources not under the control of this ordinance, such as from essential services or street traffic) exceed the decibel limits in the octave bands designated below:

Octave Band. Center Frequency (Cycles Per *Second)*	*Maximum Permitted Sound Level (In Decibels)*	*Other District*

	Where Adjoining Residential District	
31.5	76	83
63	71	78
125	65	72
250	57	64
500	50	57
1000	45	51
2000	39	46
4000	34	41
8000	32	38

(b) No person shall ignite or discharge sound producing consumer fireworks or display fireworks on any property in the city that are audible from any residential properties, except in strict compliance with fireworks regulations of the State of Michigan and the city, including chapter 22, article III of the City Code.

(Ord. No. 2012-16, 11-12-2012)

Sec. 2302. Vibration.

(a) All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of 0.003 of one inch measured at any lot line of its source, or ground vibration which can be readily perceived by a person standing at any such lot line. No stamping machine, punch press, press break, or similar machines shall be located closer than 300 feet to a residential district without written certification by the zoning administrator that a nuisance is not thereby caused to the residential district.

Sec. 2303. Odor.

(a) The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines or to produce a public nuisance or hazard beyond lot lines is prohibited.

Sec. 2304. Gases.

(a) The escape of or emission of any gas which is injurious, destructive, or explosive shall be unlawful and may be summarily caused to be abated.

Sec. 2305. Glare and heat.

(a) Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.

Sec. 2306. Light and illumination.

It is the intent of this section to regulate exterior lighting for such things as parking lots, buildings, and signs in a manner that establishes appropriate minimum levels of illumination, prevents unnecessary glare for drivers on adjacent thoroughfares, reduces spill-over onto adjacent residential properties and reduces unnecessary transmission of light into the night sky. The requirements of this section are not intended to apply to the city's "hook and bell" fixtures on Main Street nor to the city's historic-style acorn fixture, including the use of the approved acorn fixture on private property.

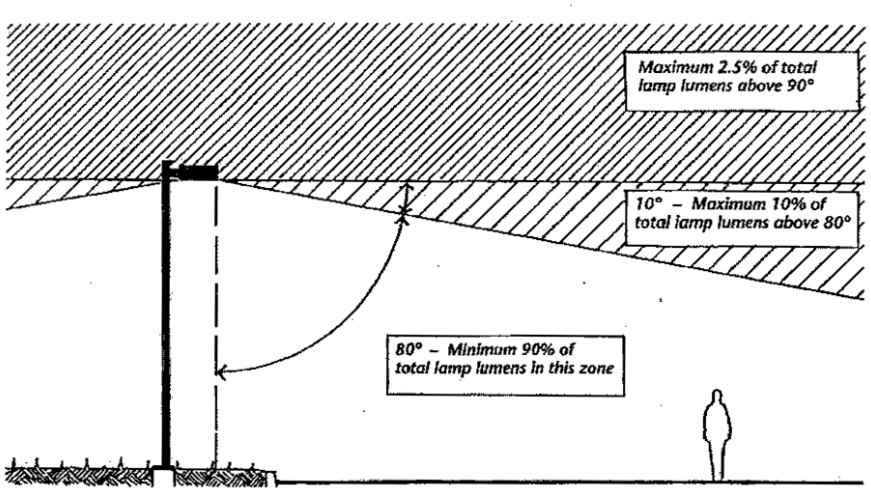
(1) *General requirements for exterior lighting in the commercial, office and mixed-use districts.* Exterior lighting shall be designed to minimize glare, reduce spill-over onto adjacent properties, and provide

appropriate levels of illumination, but shall not result in excessive nighttime illumination. The following conditions shall apply:

a. Light levels shall meet the minimum need for safety, security and illumination of a specific use, as determined by the planning commission or the building official, based upon a lighting plan submitted with the applicant's site plan.

b. To control glare, all light fixtures shall have a cut-off angle of less than 90 degrees, except decorative pedestrian fixtures of 100 watts or less.

c. The city may choose to waive or alter cut-off requirements of this section when appropriate historic or decorative fixtures are proposed (e.g., use of decorative up-lighting to illuminate the underside of a canopy or columns on a facade, where a canopy or roof projection restricts the projection of the light into the night sky).



Cut-off fixture as defined by IESNA.

d. Light fixtures shall be located at least five feet from any property line and shall be directed and shielded to cast light away from adjacent properties and streets. The maximum illumination levels at any property line shall not exceed one footcandle.

e. Glare control shall be accomplished primarily through the proper selection and application of lighting equipment. Only after those means have been exhausted shall landscaping, fencing and similar screening methods be considered acceptable means for reducing glare.

f. Lamps with true color rendition are preferred, such as incandescent and metal halide lamps. The use of mercury vapor and low and high pressure sodium lamps are prohibited. However, the planning commission may permit the use of high pressure sodium lighting at the intersections of driveways with public streets when the average illumination level on the ground does not exceed six footcandles.

g. Exterior lighting fixtures should be of a design and size compatible with the building. The use of floodlights, wall-pack lighting, or other types of diffused, unshielded lighting is prohibited.

h. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use. There shall be no flashing, oscillating, moving or intermittent type of lighting or illumination.

i. Maximum permitted fixture height:

1. Parking lot luminaires shall not exceed 20 feet.
2. Unshielded pedestrian fixtures shall not exceed ten feet.
3. All other light fixtures shall not be mounted in excess of the maximum height limitation of the district in which they are located.

(2) *Exterior lighting levels in the commercial, office and mixed-use districts.* The intensity of exterior lighting shall be limited to the following minimum/maximum levels:

Minimum/Maximum[1] Footcandle Amounts for Various Land Uses

Land Uses[4]	Illumination of:	Public Buildings, Parking, Office Uses (P-1, O-1, O-2)	Commercial Uses (CBD, B-1)
	General	0.2 min. 0.5 max.	0.2 min. 0.5 max.
	Driveway	0.2 min. 1.0 max.	0.2 min. 1.0 max.
	Parking	0.2 min. 1.0 max.	0.2 min. 1.0 max.
	Walks	0.2 min. 1.0 max.	0.2 min. 1.0 max.
	Protective	0.5 min. 1.0 max.	0.5 min. 1.0 max.
	Building	0.5 min. 3.0 max.	1.0 min. 5.0 max.
	Loading areas	0.2 min. 1.0 max.	0.2 min. 1.0 max.
Gas station/convenience store	Apron[2]	N/A	N/A
	Canopy[3]	N/A	N/A

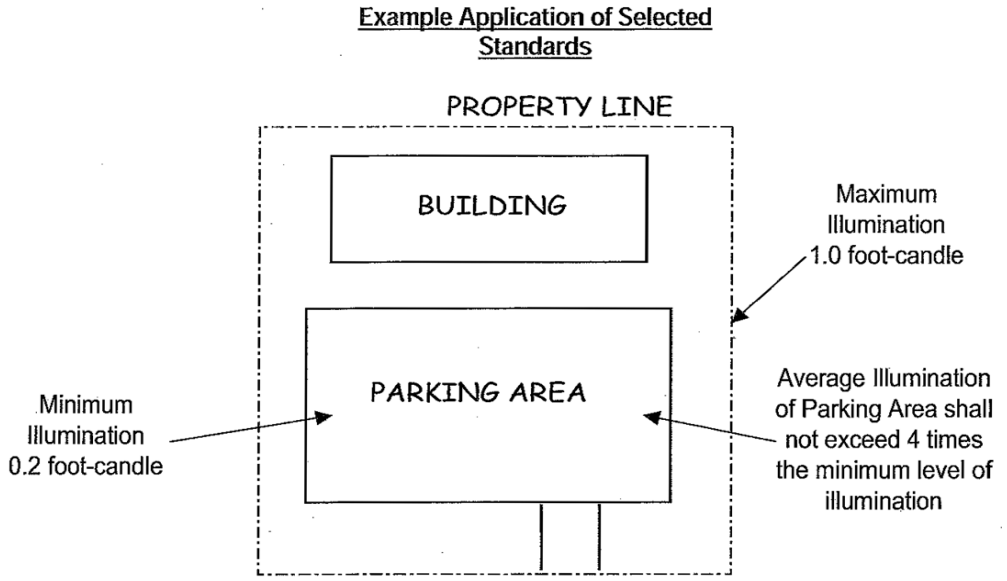
Notes to Table of Minimum/Maximum[1] Footcandle Amounts:

[1] The maximum allowable footcandle levels shall be governed by the 4:1 ratio of average to minimum illumination of the surface being lit, expressed as the average across the total area of the site or building being lighted, or directly beneath a canopy, divided by the minimum from the table above. The planning commission may modify these requirements where they determine it is necessary to protect nearby residences or driver visibility on adjacent roads.

[2] Apron areas are away from the gasoline pump island, used for parking or vehicle storage.

[3] Light fixtures mounted on canopies shall be installed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy and/or shielded by the fixture or the edge of the canopy.

[4] The planning commission may require special conditions for properties adjacent to residential uses and districts.



(3) *Exterior lighting in all districts.*

a. Exterior lighting shall be arranged as far as practical to reflect light away from any residential use, and in no case shall more than one footcandle power of light cross a lot line five feet above the ground in a residential district.

b. Exterior lighting from a commercial building or multiple-family dwelling in any district that abuts and faces a single-family dwelling in a residential district shall have shielding that directs light downward such that light does not shine on the windowed side(s) of said single-family dwelling. Any light fixtures existing at the time of the enactment of this subsection b. that do not conform to this requirement must be removed or brought into compliance upon the first of the following to occur:

1. The nonconforming light is damaged to the extent that the cost of repairing it to its former condition exceeds 50 percent of the cost of such light fixture;

2. The nonconforming light is replaced; or

3. Six months from the date subsection b. becomes effective.

c. Standard lights from single family residences abutting other residences in a residential district are subject to the one footcandle power limitation in subsection (3)a. above, but are exempt from the remaining provisions of this subsection (3).

(4) *Exemptions.* The following uses shall be exempt from the provisions of this section:

a. Roadway lighting required by the appropriate public agency for health, safety and welfare purposes;

b. Construction lighting approved by the building department as part of a building permit;

c. Flag lighting, provided that the illumination is the minimum level necessary, and that the light source is aimed and shielded to direct light only onto the intended target and to prevent glare for motorists and pedestrians;

d. Emergency lighting approved by the city, provided the lighting is discontinued upon the abatement of the emergency necessitating said lighting; and

e. Other temporary lighting determined to be reasonable and appropriate by the City of Rochester.

(Ord. No. 2004-04, 3-22-2004; Ord. No. 2021-10, § 1, 12-20-2021)

Sec. 2307. Smoke, dust, and other particulate matter.

(a) For purposes of this section: "smoke" is any visible emission into the open air from any source, except emissions of an uncontaminated water vapor; a "smoke unit" is a measure of the quantity of smoke being discharged and is the number obtained by multiplying the smoke density in the smoke chart by the time of emission in minutes. Thus, the emission of smoke at a density of smoke chart number 1 for one minute equals one smoke unit. The Ringelmann Smoke Chart shall be the standard smoke chart, and shall be on file with the administrative official. The density of smoke emission shall not exceed smoke chart number 2, and the quantity of smoke shall not exceed ten smoke units per hour per stack.

Sec. 2308. Drifted and blown material.

(a) The drifting or airborne transmission beyond the lot line of dust particles, or debris from any open stockpile shall be unlawful and may be summarily caused to be abated.

Sec. 2309. Nuclear radiation.

(a) Nuclear radiation shall not be emitted to exceed quantities established as safe by the U.S. Nuclear Regulatory Commission.

Sec. 2310. Water supply and sewage disposal.

(a) Every building used or intended to be used for human habitation or human occupancy, including but not limited to dwelling, industrial, commercial, office, and institutional uses, shall be furnished with water supply and sewage disposal as provided for in the building code ordinance. Accessory buildings, such as garages or storage buildings, intended and used for incidental or no human occupancy are excluded from this requirement, except that if water supply and-or sewage disposal is furnished to such building, it shall comply with the standards of the building code.

Sec. 2311. Open storage.

(a) The open storage of any industrial or commercial equipment, vehicles, and all materials, including wastes, except new vehicles for sale and/or display, shall be screened from public view, from a public street, and from adjoining properties by an obscuring wall or fence not less than six feet nor more than eight feet high. The required height of the wall shall be determined by the planning commission so as to properly screen all materials, vehicles and wastes. Vehicles and equipment over eight feet high must be properly screened but need not be completely screened above eight feet. Materials must be completely screened if they are stored within 20 feet of the screen wall or fence. All wastes must be completely obscured from view. In no instance shall any open storage of equipment, vehicles and/or materials be permitted within a required front yard in any zoning district.

ARTICLE 24. OFF-STREET PARKING AND LOADING

Sec. 2400. Parking, storage, or use or major recreational equipment.

(a) For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Sec. 2401. Parking and storage of certain vehicles.

(a) Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings. In residential zones it shall be illegal to park any vehicle larger than three-quarter-ton capacity unless in an enclosed building or 100 feet from any lot line, and said commercial vehicle must be owned and operated by a member of the family residing on said lot or parcel.

Sec. 2402. Required off-street parking, general.

Off-street parking required in conjunction with all land and building uses shall be provided as herein prescribed:

(1) The minimum number of off-street parking spaces shall be determined in accordance with the following table. The minimum standards of this ordinance are not intended to function as desirable design standards for maximizing site usage. The purpose of these standards is to limit traffic congestion and public inconvenience. For uses not specifically mentioned in the table, off-street parking requirements shall be established by the administrative official from requirements for similar uses.

(2) Any area once designated as required off-street parking shall never be changed to any other use unless and until equally required facilities are provided elsewhere. Off-street parking existing at the effective date of this ordinance in connection with the operation of an existing building or use shall not be reduced to an amount less than would hereinafter be required for such building or use.

(3) The off-street parking may be provided either by individual action or by a parking program carried out through public action, whether by a special assessment district or otherwise.

(4) Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately. However, in cases of dual functioning of off-street parking where operating hours do not overlap, the city planning commission may grant a conditional use based on the peak hour demand.

(5) Required off-street parking shall be for the use of occupants, employees, visitors, and patrons, and shall be limited in use to motor vehicles. The storage of merchandise, motor vehicles for sale, or the repair of vehicles is prohibited. Required off-street parking for nonresidential uses shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.

(6) Off-street parking for a one-family dwelling or a two-family dwelling shall be subject to the following requirements:

a. Required off-street parking for a one-family dwelling or two-family dwelling shall consist of a paved driveway.

b. No vehicle shall be parked on the lot other than on a paved driveway, or in a garage or carport.

c. No vehicle shall be parked closer than three feet to a front lot line.

d. No driveway shall be located between the dwelling and the front lot line (see definition below) unless:

1. Approved by the city planning commission in conjunction with its approval of a subdivision final plat; or

2. Approved by the city planning commission as a conditional use, based on the criterion that lots of ample width and area can adequately accommodate such parking, subject to article 26; or

3. Approved by the board of appeals as a variance, subject to article 30.

(7) The city planning commission may grant conditional use to the minimum number of off-street parking spaces required to be provided only to the extent that existing public parking in the immediate area exceeds the requirements of this ordinance for the existing contiguous buildings. As a condition of conditional use, the applicant/owner shall satisfy the requirements for off-street parking by a payment-in-lieu of providing said parking spaces as set forth in chapter 28, article IV of the City Code. Where off-street parking has been provided through special assessment of property, the required number of off-street parking spaces may be reduced by the planning commission by that number of spaces which can be allocated to the assessment on that property.

(8) The following area shall be known as the Parking Management District:

Bounded on the north:

Starting at the northeast corner of 400 Sixth Street, easterly to the south line of the former Penn Central Railroad, and then to the intersection of Main Street and Olde Towne Road, and then along the centerline of Olde Town Road to Water Street.

Bounded on the east:

Along the centerline of Water Street from Olde Town Road to East Third Street, and then along the centerline of East Third Street from Water Street to East Second Street, and then along the centerline of East Second Street from Third Street to East Alley, and then along the centerline of East Alley from East Second Street to Mill Street.

Bounded on the south:

By the centerlines of Mill Street and First Street from East Alley to the westerly lot line of 71 Walnut.

Bounded on the west:

From First Street extending northerly along the rear lot lines of those properties along the west side of Walnut to West Second Street, and then along the centerline of Pine Street from West Second Street extending north to the Paint Creek.

A copy of the Parking Management District map outlined above shall be available from the city clerk. The off-street parking requirements for properties located in the Parking Management District are set forth in chapter 28, article V.

(9) Notwithstanding the other provisions in this section, the planning commission may at their discretion and in limited circumstances, consider the modification of the numerical requirements for off-street parking, based upon evidence provided by the applicant that indicates that another parking standard would be more appropriate for the proposed property use. Such authority is granted to provide the planning commission flexibility in reviewing sites, which would allow for shared parking or alternate means of providing parking, when a site is unable to accommodate all of the required parking per the zoning ordinance or to avoid variances for the same, which would run with the land in perpetuity. Such flexibility or deviation from the ordinance standard would be tied to the specific use and site plan approved and will cease to exist once the use on the site terminates or changes to another use. Such evidence may include any or all of the following and shall be compiled by an independent third party:

a. Anticipated current or future levels of employees and/or patrons.

b. Peak period usage versus normal usage.

c. Banked or reserved parking for future use.

d. Environmental factors which accommodate additional landscaping and the minimization of impervious areas on the site.

e. Provision of valet parking or other means of accommodating patrons on a private lot that does not burden public parking. Further, submission of proof that such valet parking is available for the days and times noted and not in conflict with other businesses using the same valet facility.

f. Demonstration by the applicant that surrounding characteristics unique to the property justify the requested deviation.

g. Demonstration by the applicant that the strict application of the ordinance would prevent ability to develop the property as proposed for an appropriate allowed use.

h. Other factors pertinent to a modification of parking requirements that have a direct relationship to this section 2402(9).

i. Demonstration that such modification will not impact or negatively affect public parking in the city.

j. Approval of any flexibility in the parking count does not exempt a property owner from any special assessment associated with parking.

Any planning commission modification under this subsection shall be conditioned on the use of the property continuing as approved. Any substantive deviation in the type, scope or intensity of the property use will result in the standard parking requirements being applied. Non-substantive deviations may be administratively approved.

If a site that receives approval from the planning commission on the basis of evidence submitted, is found to be in violation of the terms of approval i.e., availability of valet parking or has misrepresented the information based on which such a deviation has been granted, the applicant shall receive a violation/show cause notice. The applicant will be required to appear before the planning commission to address the issue(s) and concerns raised.

Based on the information presented, the planning commission may add additional conditions to the parking deviation previously granted. Subsequently, issuance of a second violation notice by the city will be cause for revocation of the site plan privilege granted, and will require the applicant to thereafter provide the parking for the use(s) on the site as required by the zoning ordinance or discontinue the use altogether.

(Ord. No. 2013-03, pt. I, 3-11-2013; Ord. No. 2015-09, 6-22-2015)

Sec. 2403. Table of required off-street parking spaces.

Uses	***Spaces***	***Per Unit of Measurement (Rounded Off to Nearest Unit)***
a. Residential:		
One-family detached and two-family dwelling	2	Per dwelling unit.
Manufactured homes, family day care homes, adult foster care family homes, adult foster care small group homes (6 or fewer adults) and child foster family homes.	2	Per dwelling unit/home site and one for each employee at the facility plus 0.25 parking spaces per unit for visitor parking which shall be located convenient to the area served.
Multiple-family and single-family attached		One for each efficiency unit. 1.5 for each one bedroom unit. Two for each 2 bedroom unit. Three for 3 plus bedroom unit.
Housing for the elderly - Independent		One for each dwelling unit plus one for each employee in the largest shift. If units revert to general occupancy, then subsection (1)b of this section applies.
Housing for the elderly - Dependent		
i. Congregate care		One space per 2 units plus one for each employee and doctor in the largest shift.
ii. Assisted living		One space per 2 units plus one for each employee and doctor in the largest shift.
iii. Nursing/convalescent		One space per 4 units plus one for each employee and doctor in the largest shift.
b. Office:		
Banks, credit unions and similar financial service offices, with or without drive-through	1	Per 250 sq. ft. GFA, plus 4 stacking spaces per drive-through lane and 2 stacking spaces per independent 24-hour ATM teller machine.
Business or professional general business offices such as, but not limited to, insurance, mortgage or loan company service offices, secretary of state office, unemployment compensation office, utility company office	1	Per 300 sq. ft. GFA.
Medical or dental clinics, professional offices of doctors, dentists, or similar professions	1	Per 200 sq. ft. GFA.
c. Commercial:		
Outdoor dining areas on a "weather permitting basis" with seating for 30 or less patrons		No additional space required.

Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures then the following standards apply:

(1) If the outdoor seating is 25 percent or less of the seating capacity indoors, no additional parking is necessary.

(2) If the outdoor seating is 26 percent—50 percent of the seating capacity indoors, the restaurant may be required to provide up to 125 percent of the parking required for the indoor space.

(3) If the outdoor seating is over 50 percent of the seating capacity indoors, the restaurant may be required to provide up to 150 percent of the parking required for the indoor space.

In addition to the above requirements for number of spaces, all uses in commercial, office and industrial districts shall design the off-street parking area so that the following objectives are met. The planning commission has the discretion to require the provision of 20 percent additional parking above the required amount, if the commission determines that a project has not met the said objectives.

(1) Minimizes the likelihood of parking interference affecting adjoining residential neighborhood.

(2) Limits traffic congestion and public inconvenience by providing ample parking on-site to meet all foreseeable daily needs.

(3) Reduces the potential for overflow conditions that might result in undesirable on-street parking.

(4) Provide space on-site for future parking expansions.

Uses	***Spaces***	***Per Unit of Measurement (Rounded Off to Nearest Unit)***
Bed and breakfast homes	1	Each rental room plus one for owner/manager.
General retail stores	1	Per 200 sq. ft. GFA.
Furniture and appliance, hardware stores, household equipment repair shops, showroom of a plumber, decorator, electrician or similar trade, shoe repairs	1	Per employee plus one per 600 sq. ft. of usable floor area.
Supermarkets	1	Per 150 sq. ft. GFA.
Barber shops	2	Per chair.
Beauty parlors	2	Per station.
Convenience stores	1	Per 200 sq. ft. of GFA.
Carry-out establishments primarily serving customers over a counter or through a window, other than a drive-through facility, i.e., food carry-out, dry cleaner pick-up, meat markets, bakeries, etc.	1	Per 30 sq. ft. of floor area devoted to customer assembly and/or waiting area. Parking needs for areas devoted to the consumption of food on the premises shall be computed separately for such seating areas.
Contractor's showroom and offices with no exterior storage yards (i.e., plumber, decorator, electrician or similar trade)	1	Per 800 sq. ft. of gross floor area plus one for each 2 persons employed therein, plus one per company/commercial vehicle.
Dance, gymnastics, music, voice, art and other similar schools and studios	1	Per 2 students based on maximum occupancy.
Dog grooming	1.5	Per grooming station.
Funeral parlors	1	Per 5 persons based on maximum capacity, plus One for each employee on the largest employment shift, plus One for each facility vehicle.

Health and physical fitness centers	1	Per 4 persons based on maximum capacity, plus one space per employee on the largest employment shift.
Kennels, dog hotels, etc.	1	Per 800 sq. ft. of GFA.
Pool hall or club	1	Each game table, or one for each 300 sq. ft. GFA whichever is greater.
Bowling alleys	5	Each bowling lane or 3 per bowling lane plus amount required for accessory uses such as restaurant or bar.
Restaurants without alcoholic beverages	1	150 sq. ft. GFA.
Restaurants with defined bar area for serving alcoholic beverages	1	100 sq. ft. GFA
Restaurants with alcoholic beverages served only at dining tables, but without a defined bar area for serving or displaying alcohol	1	145 sq. ft. GFA
Fast food restaurant	1	Per each 75 sq. ft. of gross floor area plus 8 off-street stacking spaces shall be provided for each drive-through transaction window.
Ice cream parlors	1	Per 75 sq. ft. of net floor area, with a minimum of 8 spaces.
Theaters and auditoriums (except schools)	1	Each 3 seats.
Laundromats	1	Each 2 washing machines or one per 250 sq. ft. of GFA.
Movie theaters	1	Per 3 persons based on maximum occupancy.
Motel, hotel or other commercial lodging establishment	1	Each guest room plus spaces required for accessory uses such as bars, dining rooms, meeting rooms or ballrooms.
Open front or open air business, including outdoor retail display areas, and not otherwise provided for herein	1	Per 800 sq. ft. of gross lot area used for said business.
Stadium and sports arena, or similar outdoor place of assembly	1	Each 4 seats, or 8 feet of bleachers.
Printing and photo copying facilities	1	Per 300 sq. ft. of GFA.
Drug stores and other self-serve retail establishments	1	Per 250 sq. ft. of usable floor area plus 8 stacking spaces per drive-through window.
Veterinary hospitals and clinics	1	Per 300 sq. ft. of usable floor area.
d. Public and Institutional:		
Churches and other houses of worship	1	Each 3 seats. Plus parking required for ancillary uses such as child care, café, classes, etc.
Hospital	1	Per 2 beds and one per staff doctor and employee in largest shift.
Group homes (adult group day-care homes, adult foster care small group homes (7 to 12), child group day care homes, and child foster family group homes)	1	Per 2 residents, plus One for each employee.
Elementary and junior high schools	1	Per employee and teacher plus one space per 4 auditorium seats.

High schools, trade school, colleges and universities	1	Per teacher, employee or administrator and one for each 10 students, in addition to one space for each 4 auditorium seats, if provided.
Private club or lodges	1	Each 5 members based on allowable occupancy.
Golf clubs or swim pool clubs	1	Each 2 members.
Fraternity or sorority	1	Per 1.5 bedrooms.
Libraries, museums, cultural centers or similar facilities	1	One for each 500 sq. ft. of gross floor area or occupancy allowed, whichever is less.
Municipal and public utility offices	1	Per 300 sq. ft. of GFA.
e. Industrial:		
Industrial manufacturing or research establishments	1	Per 800 sq. ft. GFA.
Warehouse and storage facilities (including self-storage)	1	Per 1,500 sq. ft. of GFA.
Wholesale establishments	1	Per 1,000 sq. ft. GFA.
Contractor's offices with exterior storage yards (i.e., plumber, decorator, electrician or similar trade)	1	Per 300 sq. ft. of GFA.
f. Automotive Uses:		
Automobile/motor vehicle sales and service establishments, trailer sales and rental and boat showrooms		One for each 200 sq. ft. of showroom floor area, plus One for each service stall.
Automobile/motor vehicle repair, collision or bump shops, and other similar uses		Two for each service stall, plus One for each service vehicle.
Automobile service stations without convenience store		One for each pump unit, plus Two for each service stall.
Automobile service station with convenience store		One for each pump unit, plus Two for each service stall, plus One for each 200 sq. ft. of gross floor area devoted to customer retail sales, customer service and other related uses.
Automobile/motor vehicle wash (self-serve)		Five for each wash stall, plus One for each vacuum station. Spaces for the wash stall shall be counted as one post wash station, one wash station and 3 stacking spaces per stall.
Automobile/motor vehicle wash (automatic)		One for each 200 sq. ft. of gross floor area of customer waiting and service area, plus one for each vacuum station plus stacking spaces equal in number to 5 times the maximum capacity of the motor vehicle wash for automobiles awaiting entrance. The term "maximum capacity" shall mean the greatest number possible of automobiles undergoing some phase of washing at the same time, which shall be determined by dividing the length of each wash line by 20 feet. A drying lane 50 feet long shall also be provided at the exit of the washing stalls in order to prevent undue amounts of water

		from collecting on the public street and thereby creating a traffic hazard.

Upon approval by the planning commission, the paved area for off-street parking may be reduced to an area comprising one space for every employee in the largest working shift, or one for every 1,700 sq. ft. of usable floor area, whichever is greater, provided that a surplus area is provided on the site to accommodate the construction of additional off-street parking to fulfill the requirements for industrial or research establishments when needed.

The purpose of this subsection is to prevent improved industrial property from being rendered unusable by changing economic conditions, by permitting such uses to develop with reduced numbers of constructed off-street parking spaces while retaining additional site area for possible future off-street parking use. The applicant shall submit one layout showing the number of spaces to be provided as well as an alternate layout showing the number of spaces to be provided and the number to be landbanked. All areas designated for landbanking shall be maintained as landscaped open space. The applicant shall demonstrate that all landbanked parking areas can be developed as future parking spaces in accordance with city standards. Landbanked parking areas may not be used to satisfy landscaping, buffer, or screening requirements of this ordinance.

Approval for deferral of parking space construction (landbanking) shall only be granted upon a finding by the planning commission that adequate parking will be available for the proposed use on site; parking will not occur on any street or driveway, no traffic or circulation problems will occur on or off site; and the deferral is consistent with and protects public health, safety and welfare.

(Ord. No. 2009-13, 5-11-2009; Ord. No. 2009-21, pt. 5, 11-9-2009; Ord. No. 2009-22, pt. 4, 11-9-2009; Ord. No. 2015-05, pt. I, 2-23-2015; Ord. No. 2017-02, pt. I, 2-13-2017)

Sec. 2404. Off-street parking lot layout, construction and maintenance.

Wherever a parking lot is built, such parking lot shall be laid out, constructed, and maintained in accordance with the following requirements:

(1) The construction or initiation of off-street parking, except for a single-family dwelling, shall be preceded by an approved site plan, and zoning compliance permit.

(2) All parking spaces shall be laid out in the dimension of nine feet by 18 feet; however, in a parking lot of more than 12 parking spaces, the city planning commission may approve a site plan providing for up to 25 percent of the spaces in the dimension of nine feet by 16 feet, designated for small cars.

(3) Adequate ingress and egress shall be provided for vehicles to and from the parking lot by means of clearly limited and defined drives.

(4) Parking spaces will be set back from abutting residential districts as follows:

Where the parking lot adjoins or faces a residential district at the following:	*Required setback of parking spaces:*
Side lot lines	Three feet from such side lot line
Contiguous common frontage in same block	Ten feet from front lot line
Across the street and opposite with residential lots fronting on such street	Ten feet from front lot line
Across the street and opposite, or contiguous to and in the block, with residential side lot lines on such street	Ten feet from street lot line
Rear lot line	Three feet from rear lot line

(5) For the purposes of this section, the land between the setback of parking spaces and the lot lines is called a buffer strip. Wheel stops or curbing shall be provided to prevent any vehicle from projecting into a buffer strip or over a lot line. Up to two feet of the distance between the wheel stop or curbing and the buffer strip may be counted towards the depth dimension of the parking space(s), if it is designed to accommodate vehicle overhang, and that area shall be paved, stoned, or landscaped. Any portion of a buffer strip which is three feet or less in depth and is screened from adjoining property by a screen wall shall be paved, stoned, or landscaped; all other buffer strips or portions thereof shall be landscaped (including incidental walkways or other paving) pursuant to an approved site plan.

(6) Wherever a parking lot of four or more spaces adjoins or is across the street from a residential district, screen walls shall be constructed in accordance with article 28.

(7) The off-street parking lot shall be provided with asphaltic or concrete or other approved surfacing so as to provide a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water accumulated within the area in such a way as to not drain onto adjacent property or building. The construction of the required off-street parking shall be completed before a certificate of occupancy is issued; provided, however, for reasons of delay in construction caused by weather or other delay beyond the control of the owner, the planning commission may approve a financial guarantee for the completion of the off-street parking within not more than one year of the issuance of a certificate of occupancy, in accordance with section 2905, performance guarantee.

(8) Parking decks and/or structures may be permitted to satisfy off-street parking regulations when located in other than a residential or office district. All parking decks and/or structures shall require conditional use approval by the planning commission. During consideration of the conditional use, the commission shall ensure that the following standards are met, in addition to the general requirements of article 26:

a. Where a parking deck or structure is located on property adjacent to a one-family residential district, the following standards shall apply:

1. It shall be set back from the common lot line a distance not less than 100 feet.

2. The maximum height of the parking structure shall not exceed 48 feet. Where the maximum height of 48 feet will not achieve the required number of parking spaces, additional levels of the parking garage shall only be permitted below grade.

3. If the parking structure will exceed the maximum height allowed in the adjacent one-family district, the minimum setback as required by subsection (8)a.1. of this section shall be increased by an additional two feet for every one foot the structure exceeds the maximum height allowed in the adjacent one-family district.

4. The applicant shall demonstrate that the parking structure will not cast a shadow on any adjacent one-family residence in a manner that deprives its occupants of adequate natural light. The planning commission may require a greater setback than otherwise required in order to ensure this standard will be met. For reference, the applicant shall demonstrate what impact the structure's shadow will have on adjacent one-family districts based on the angle of the sun at 12:00 noon and 3:30 p.m. on December 21, and at 12:00 noon and 6:00 p.m. on June 22. The demonstration shall be made using three-dimensional modeling software or an equivalent method approved by the planning commission.

5. The entire area between a parking deck or structure and the abutting residential district shall be landscaped with trees, shrubs, and other ornamental plant materials and shall be illustrated on a landscape plan sheet for approval by the planning commission. The plan shall be designed to provide a living buffer and natural transition from the residential lot line to the parking structure. For parking structures in excess of 25 feet tall, the landscape plan shall provide large deciduous and/or evergreen trees along the face of the parking structure as one element of the landscape plan, placed 30 [feet] out from the structure and spaced on

30-foot centers, and interspersed with a variety of ornamental shrubs. The planning commission may approve a green screen or living wall type of planting in place of this first tree row, where it finds such technique will provide equal or greater screening of the building facade than the tree planting.

6. All equipment installed as a part of a parking deck or structure shall comply with the regulations for sound in section 2301 of this [zoning] ordinance.

7. The side of a parking deck or structure that faces a residential district shall have a finished appearance by the application of face brick or an equivalent material approved by the planning commission. There shall be no openings in the wall of a parking deck or structure that faces a residential district, except those required by the building code or necessary to ensure public safety.

8. Lighting fixtures and equipment for a parking deck or structure shall be designed so as not to cause glare or otherwise illuminate an adjoining residential district.

9. The planning commission may limit the hours of operation of a parking structure where necessary to provide protection to nearby residences.

10. Access to the structure along common lot lines abutting the residential districts shall be limited to access drives for emergency vehicles, when necessary.

b. Where a parking structure is not adjacent to a residential district, it shall meet the height and setback requirements of the current zoning district, in addition to the following standards:

1. In order to minimize interruptions in the pedestrian experience, structures which front upon streets located in the Central Business district shall be designed with ground floor space, liner buildings, or future building sites for retail or similar uses along the public sidewalk. The planning commission may grant a waiver from this requirement for all or part of the ground level frontage on streets determined to be outside the retail core of the downtown.

2. In the B-1 and CBD districts, awnings, signage and other architectural elements shall be incorporated that encourage pedestrian activity and enhance the streetscape.

3. Auto entrances shall be located to minimize pedestrian/auto conflicts.

(9) The plan for the layout of the parking lot shall provide at least the following minimum dimensions to the pattern utilized:

Pattern	*Total Dimension Across Two Tiers of Spaces and One Aisle (Maneuvering Lane)*	*Minimum Aisle Width Dimension*
90 degree	60 feet	24 feet
60 degree	54 feet	18 feet
45 degree	48 feet	15 feet
45 degree Herringbone pattern	46 feet	15 feet

Any aisle or maneuvering lane of less than 20 feet width shall be designed and designated for one-way traffic movement.

(10) The plan for the off-street parking lot shall specify the landscaping to be installed, including the placement and specifications of landscape materials, and shall be subject to approval as part of the site plan. The parking lot shall be landscaped in accordance with the approved site plan before a certificate of occupancy is issued for use of the parking lot. However, if seasonal weather conditions present practical difficulties in the installation or completion of the landscaping, the completion thereof may be

deferred for not more than six months. If the landscaping is not fully installed by that time in accordance with the approved plan, occupancy for the use of the parking lot shall be revoked by the administrative official.

The owner of the premises upon which the landscaping is located shall maintain such landscaping in good condition so as to present a thriving, neat, and orderly appearance-free from refuse and debris. All diseased and dead material shall be replaced within one year or the next appropriate planting period, whichever, comes first.

All off-street parking areas of more than 40 spaces shall incorporate and provide curbed or otherwise protected tree planting spaces to be laid out and constructed to dimensions of not less than five by ten feet, providing not less than 50 square feet of land area for each tree planting space, to be placed so as to be located in an asymmetrical manner throughout the parking area. There shall be planted and maintained, trees of a selected variety and varying in size as may be practical for planting and architectural effect, as provided pursuant to section 13, but which shall be of a minimum of 1½ inches in trunk diameter at the time of planting and shall be provided and arranged as to establish a ratio of a least one tree for each 20 parking spaces or fraction thereof.

The plan for off-street parking, except as accessory to a single-family dwelling, shall be subject to the site plan approval requirements of article 27. Parking spaces of a parking lot are prohibited within the front 20 feet depth of a lot between the principal building and the front lot line, regardless of whether that area is a required front yard.

If the off-street parking lot is intended to serve office, business or commercial use(s), the parking lot and associated driveways shall be laid out to facilitate joint usage of driveways and circulation routes with adjoining property in the same block zoned for office, business or commercial use(s), with the intent of minimizing points of driveway access to major thoroughfares, increasing efficiency and safety of traffic circulation and coordinating grades and drainage. The planning commission shall have authority to require the implementation of such joint usage of said driveways and circulation routes by appropriate legal documentation between or among the property owners.

(Ord. No. 2010-16, 7-12-2010)

Sec. 2405. Off-street loading and unloading.

(a) On the same premises with every building, structure, or part thereof erected and occupied for manufacturing, storage, warehousing, retailing, wholesaling, or other uses involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading services adjacent to the opening used for loading and unloading in order to avoid interference with public use of highways, streets, or alleys.

(b) Any building(s) designed or used for retailing which have a total of more than 10,000 square feet gross floor area on one lot shall be provided with walls or other architectural elements designed and constructed as integral parts of extension of the building(s) for the purpose of visually screening the loading and unloading areas and activities and refuse storage areas, and such treatment shall require approval as part of the site plan.

Sec. 2406. Parking prohibition on unimproved land.

(a) The parking of motor vehicles is only allowed on parking lots meeting the requirements of section 2404, off-street parking lot layout, construction, and maintenance, except that:

  (1) Parking for one-family or two-family dwelling is subject to the requirements of section 2402(6);

  (2) Parking of vehicles in public rights-of-way is subject to the traffic code;

  (3) The temporary parking of vehicles in conjunction with on-going construction on the site is excluded from the provisions of this article 24.

a. It shall be the responsibility of the property owner to prevent the parking of vehicles on the property in violation of subparagraph (a) above by fencing or other physical barriers approved by the administrative official. The failure of the property owner to install such physical barrier within 90 days written notice by the administrative official shall be a violation of this ordinance.

b. The planning commission may grant a conditional use for the temporary use of land for parking which does not meet the requirements of section 2404, for a specified duration, in unusual cases of temporary need, subject to such conditions on grading, drainage and traffic control as the commission shall impose.

c. Bona fide parking lots which are legally initiated before July 25, 1977, and which have continuously served the parking needs of premises within 300 feet of the parking lot and which do not conform to the requirements of this ordinance may be continued, subject to the conditions and restrictions of article 4 on nonconforming uses.

ARTICLE 25. PLANNED RESIDENTIAL DEVELOPMENT (PRD) OPTION IN R-4 AND R-5 DISTRICT

Sec. 2500. Intent.

(a) There is hereby established a Planned Residential Development option, with the purpose of allowing and encouraging flexibility in the types of residential dwellings and in the design of residential development, encouraging preservation of open space, while conforming to the density regulations of the R-4 District.

(b) The term "Planned Residential Development" means a specific parcel of land or contiguous parcels of land located entirely within an R-4 and/or R-5, One-Family Residential District under single ownership and control for which a comprehensive physical plan meeting the requirement of this section has been approved by the city council, and which has been, is being, or will be developed in accordance with the approved plan. Planned Residential Development is sometimes hereinafter referred to as PRD.

(c) Approval of a PRD shall be considered an optional method of development and improvement of property, subject to the mutual agreement of the city and the applicant.

Sec. 2501. Qualification for PRD.

(a) In order to qualify for consideration under the PRD option, the following requirements shall be satisfied:

(1) The proposed PRD areas shall be in one ownership.

(2) The land shall have direct access to a major or secondary thoroughfare.

(3) The PRD option is only intended for development which is planned and anticipated to be substantially underway within 24 months from the time of approval. The city's approval of a PRD shall expire within 24 months if construction of at least ten percent of the planned dwelling units is not started by that time.

(b) As matters of general design policy, the following objectives shall be encouraged and sought in PRD plans, as appropriate for the location.

(1) Scenic open spaces shall be provided along major roads and the width of such open space shall generally be equal to about one-half [of] the right-[of-]way.

(2) Recreation and scenic open space and facilities shall be provided for the use and enjoyment of PRD residents.

(3) Pathways for pedestrian and bicycle circulation shall be separated as completely as possible from the vehicular circulation system so as to reduce and minimize points of traffic conflict, and to enhance safety of pedestrian and bicycle circulation.

(4) Private roads within the PRD, if any, shall conform to the minimum road standards established by the city for public roads.

(5) A variety and mixture of housing types is encouraged, and the PRD shall include adequate provisions and safeguards to assure that the planned variety and proportions of housing types will be accomplished within a reasonable period of time.

Sec. 2502. Permitted principal uses.

(a) In a Planned Residential Development, the following [principal] uses shall be permitted:

(1) Detached one-family residential dwellings with each such dwelling located on a lot in a recorded subdivision. Not less than one-half of the total number of dwellings in the PRD shall be one-family detached dwellings.

(2) Detached one-family residential dwellings or attached one-family residential dwellings located in a "condominium project" as defined by Act 59 of 1978, as amended. These dwellings shall be in conformance with a condominium subdivision plan approved by the city council, and with the Michigan Corporation and Securities Commission in accordance with that statute.

(b) For purposes of this section, an "attached one-family dwelling" is a dwelling unit having one or more walls attached to the walls of not more than two other such units, and which is completely self-contained, with no part of the dwelling unit above or below another dwelling and without interior access to any other dwelling unit, and with each dwelling unit having its own entrance directly to the outdoors. There shall be no more than five dwelling units which are attached directly or indirectly one to another.

Sec. 2503. Permitted accessory uses.

[The following accessory uses shall be allowed in a Planned Residential Development:]

(1) Same as accessory uses allowed in a One-Family Residential District.

(2) In conjunction with and as part of the PRD; subdivision or neighborhood recreation and social facilities, such as swimming pools, parks, recreation buildings, social centers, public utilities, and similar facilities designed and intended primarily for the use of residents of the PRD.

Sec. 2504. Supplementary uses not in PRD.

The PRD option under the R-4 and/or R-5, One-Family Residential District does not allow stores, office buildings, or any other uses not herein designated as permitted uses. A PRD plan may include proposals for such supplementary neighborhood or community facilities; however:

(1) These would entail rezoning to accommodate such nonresidential uses; and

(2) The land for such nonresidential uses shall be clearly and specifically identified in the PRD plan as being outside the boundary of the PRD, and not included in the density calculations thereof.

Sec. 2505. PRD minimum land area and lot area.

In order to be considered for Planned Residential Development, the minimum overall project site size shall be 80 acres. The maximum allowable density and minimum recreation space and open space requirements in any PRD shall be in accordance with the following standards:

(1) There shall be a minimum average of 9,600 square feet of land area per dwelling unit in a PRD, exclusive of public and/or private street rights-of-way.

(2) The R-4 requirements of the schedule of district regulations shall be used as guidelines for lot area, lot width, lot coverage, yard setbacks, and building height. These requirements may be modified in the approved plan provided they are appropriate to the design of the PRD and the intent of this section.

(3) For each square foot of open space or recreation space permanently established by the PRD, there may be a corresponding reduction of one square foot in the land area required to accommodate the number of dwelling units proposed, to a maximum of 25 percent of the total required land area. This shall mean that the actual land area per dwelling unit in a PRD shall not be less than 7,200 square feet, exclusive of open space and recreation areas and street rights-of-way.

(4) No individual lot area, lot width, or yard setback shall be reduced by more than 25 percent of the R-4 requirements.

(5) An individual area being considered for approval as open space or recreation space shall not be less than one acre in size. This standard may be modified only in the case of very unique or critical natural areas that are actually less than one acre in size or in the case of certain pedestrian facilities designed to separate pedestrian and automobile traffic.

(6) All proposals for Planned Residential Development in R-4 districts shall provide a minimum of 1,450 square feet of open space or recreation area per dwelling unit proposed. Within an R-5 district, a minimum of 2,250 square feet of open space or recreation area per dwelling unit shall be provided.

(7) It is the intention of the PRD option that land area and setback reductions should result in the creation of significant sites for recreation activities or in the preservation and protection of significant natural features of the site such as unique topography, important wetlands, heavily wooded areas, scenic views and the like. In addition, these areas should relate directly to those portions of the development where land areas per unit will be reduced and should be available for the use and enjoyment of PRD residents. If these conditions are not met, the city will not approve the lot area reductions.

Sec. 2506. PRD open space.

(a) The difference in land area between the minimum required total land area in PRD and the provided lot area shall be furnished in open land area comprised of land for recreation, conservation, floodplains, and/or other open land uses. The open space may include incidental and accessory buildings and structures serving the subdivision, such as recreation and social center buildings. All open space which is to be utilized toward satisfying the density requirements of the PRD shall be restricted by appropriate covenants running with the land to assure the perpetual use of such land as intended by the approved PRD plan, and shall be designed and intended primarily for the use and enjoyment of the PRD residents. Land may be designated for schools, houses of worship, and similar uses listed under R-4 and/or R-5 conditional uses, but shall not be included toward satisfying the density requirements of the PRD.

Sec. 2507. Application for PRD approval.

The owner(s) of land zoned R-4 and/or R-5, One-Family Residential District may make application to the city council for consideration under this section of this ordinance according to the following procedure:

(1) Submittal of proposed PRD plans. An application shall be made to the city clerk for review and recommendation by the planning commission of the following:

a. Boundary survey of the exact acreage being requested, certified by a registered land surveyor or civil engineer.

b. A topographic-planimetric map of the area at a contour interval of not less than two feet, identifying all major stands of trees, bodies of water, and unbuildable areas, certified by a registered land surveyor or civil engineer.

c. A preliminary development plan of the PRD carried out in sufficient detail to identify: the functional use areas and dwelling unit types being requested; the proposed population densities; a traffic circulation plan; site being reserved for schools, service activities, playgrounds, recreation areas, parking areas, and other open spaces and areas to be used by the public and/or by residents of the PRD. This plan shall be certified by a registered architect or a registered landscape architect.

d. Preliminary plan of contemplated storm runoff, sanitary sewer, and water distribution systems, together with a preliminary grading plan.

All maps and plans in subsections (1)a through d [of this section] shall be at a scale of not less than one inch equals 40 feet.

e. A written statement explaining in detail the full intent of the applicant and indicating types of dwelling units contemplated, resultant population and densities, calculations of area requirements, together with supporting documentation, such as soil surveys and intended schedule of development.

Sec. 2508. Review and approval of PRD plan.

(a) The city clerk shall refer such application to the planning commission for its report and recommendation to the city council. Upon receiving the planning commission's report and recommendation, the city council may approve said application and PRD plan only upon finding that:

(1) All applicable provisions of this section and this ordinance have been met.

(2) Adequate areas have been provided for utilities, schools, walkways, playgrounds, recreation areas, parking and other open space and areas to be used by the public and/or residents of the development.

(3) There will be at the time of development an adequate means of treatment and disposal of sanitary sewage and of water supply, and the road system and storm water drainage systems shall be adequate.

(4) The plan provides for an efficient, aesthetic, and desirable use of the open areas and that the plan is in keeping with the objectives of the comprehensive development plan.

(5) The applicant has made provision satisfactory to the city council to assure that those areas shown on the plan for use by the public or occupants of the development will be or have been committed for that purpose.

(6) Provisions have been made satisfactory to the city council to provide for the future financing of any improvements shown on the plan for open space areas and common use areas which are to be included within the PRD, and that maintenance of such improvements is assured by a means found to be satisfactory to the city council.

(7) The cost of installing all streets, utilities, and public improvements has been assured by a means satisfactory to the city council.

(b) The city council shall then instruct the city attorney to prepare a contract setting forth conditions upon which such approval is based. After approval by resolution of the city council, this contract shall be executed by the city and the applicant, and recorded in the office of the Oakland County register of deeds. Approval of the PRD shall be effective upon recordation.

(c) Any conditional use use(s) provided for under the R-4 and/or R-5 District may be approved as part of the PRD plan by the city council without city planning commission approval, provided no such use is within less than 300 feet of a boundary of the PRD.

(d) Once an area has been included within a plan for PRD and such plan has been approved by the city council, no development may take place in such area nor may any use thereof be made except in conformance and accordance with the plan or a city council approved amendment thereto, unless the plan is terminated as provided herein.

(e) Prior to any development within the area involved, an approved PRD plan may be terminated by the applicant or his successors or assigns by filing such termination with the city clerk and recording same in the Oakland County Records.

(f) No approved PRD shall be terminated after development commences, except with the approval of the city council and of all parties with an interest in the land.

(g) Within a period of two years following approval by the city council of the PRD, final plats and/or site plans for an area embraced within the PRD must be submitted as hereinafter provided. If such plats and/or plans have not been submitted and approved within the two-year period, the right to develop under the approved plan may be terminated by the city.

(h) The PRD shall be consistent with and promote the intent and purpose of article 25. The land uses and activities shall be compatible with adjacent uses of land, the natural environment, and the capacities of public utilities, roads, fire and police services, schools, playground and other public services and facilities. The PRD shall be consistent with the public health, safety, and welfare of the city.

(i) Before approving a PRD Plan, the city council shall hold at least one public hearing on the request. The city council shall grant a pre-application conference and/or review a preliminary site plan before the public hearing if requested by the applicant.

(j) Notification of the public hearing shall be given in the same manner as required by section 2602. Within a reasonable time following the public hearings, the city council shall meet for final consideration of the request, and shall deny, approve, or approve with conditions, the request. It shall prepare a report stating its conclusions on the request, the basis for decision, and any conditions relating to an affirmative decision pursuant to section 2604.

(k) Approvals may be granted on the PRD as a whole or on each phase of a multiphased development if each phase contains the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the development and the residents of the surrounding area.

Sec. 2509. Final plans and site plans, and development of PRD.

(a) Before any building permits or zoning compliance permits shall be issued for buildings and structures within the PRD, final plats and/or site plans as appropriate for the area shall be submitted to the city clerk for review and recommendation by the planning commission. Plats shall be prepared and furnished in accordance with the procedures of the city for plats, and site plans shall be submitted in accordance with article 27.

(b) In order to assure the development of open space as provided for in the PRD plan, the city council shall include in the contract recorded with the Oakland County register of deeds a schedule for the completion of phases or portions of the open space so that it coincides with completion of dwelling units. The developer may suggest a schedule for review by the city council.

(c) Fees for review of PRD plans, plats, and site plans in conjunction with planning and development of PRDs shall be established by resolution of the city council.

ARTICLE 26. CONDITIONAL USES, CONDITIONS OF APPROVAL

Sec. 2600. Conditional uses.

(a) The following requirements, and procedures shall apply to the conditional uses; wherever any other provisions of this ordinance are in conflict with this section, the provisions of this section shall prevail. The review and approval of conditional uses shall be performed by the city planning commission, provided however that the conformance of plans, construction, and use to the requirements of this ordinance and the city planning commission's approval shall be reviewed and approved by the administrative official.

Sec. 2601. Conditional use: definition.

(a) A conditional use is a use that would not be appropriate generally throughout a district without restriction, but which, if controlled as to number, area, location or relationship to environs, and/or conditions, would be appropriate to a particular location. "Conditional uses" are synonymous with "special land uses" as used in the MZEA Act, Act 110, Public Acts of 2006, as amended.

(Ord. No. 2009-07, pt. 2, 3-9-2009)

Sec. 2602. Procedures.

The application for a conditional use shall cite the provisions of this ordinance under which the conditional use is sought and shall include a site plan pursuant to article 27. Upon receipt of an application for a conditional use, after the application has been approved by the city manager as to completeness and form, including the site plan requirements of article 27, a public hearing shall be held by the city planning commission before a decision on the application is made by the city planning commission. The notice of public hearing shall be published in a newspaper of general circulation in the city and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet regardless of whether the property or occupant is located in the City of Rochester. The notice shall be given not less than 15 days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, business or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas or organization, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

(1) Describe the nature of the conditional use request.

(2) Indicate the property, which is the subject of the request. The notice shall include a listing of all existing street addresses within the property.

(3) State when and where the request will be considered.

(4) Indicate when and where written comments will be received concerning the request.

(Ord. No. 2009-07, pt. 2, 3-9-2009)

Sec. 2603. Action by city planning commission.

(a) The city planning commission may deny, approve or approve with conditions, requests for conditional use approval. The decision shall be incorporated in a statement of conclusions and findings relative to the conditional use under consideration and shall specify the basis for the decision, and any conditions imposed.

(Ord. No. 2009-07, pt. 2, 3-9-2009)

Sec. 2604. Conditions of approval.

(a) The conditions imposed with respect to the approval shall be recorded in the statement of findings and conclusions and maintained as part of the record of the approval action and shall remain unchanged except upon the mutual consent of the city planning commission and the landowner. The city planning commission shall maintain a record of changes granted in conditions.

(Ord. No. 2009-07, pt. 2, 3-9-2009)

Sec. 2605. Uses not otherwise listed or regulated land uses.

The planning commission shall have the following specific powers and duties concerning uses that are not otherwise listed in the Zoning Ordinance:

(1) *Statement of intent.* In some instances, the administration may determine a particular proposed use not specified may be a use inconsistent with the overall planning philosophy and considerations set forth in the Master Plan or Zoning Ordinance that substantiate or enhance the type of residential and commercial growth contemplated for this community. The procedures and standards in this section are intended to provide a consistent and uniform method for review of uses that are not specifically listed in the Zoning Ordinance (henceforth referred to as "regulated uses"), cannot be properly classified in any particular district without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

(2) *Application.* The application for regulated uses shall be made on the existing conditional use forms and according to the guidelines provided by the city administration and its consultants. Each application shall be accompanied by the following:

a. A detailed site plan which shall include all the information required by article 27 of the Zoning Ordinance.

b. A description of the proposed use of the property.

c. Other information which the planning commission may reasonably deem necessary for adequate review or is otherwise set forth in this section 2605.

(3) *Applicant.* The application shall be submitted by the owner of an interest in land (i.e., a fee owner, lessee or the purchaser under an option to purchase, conditional purchase agreement or similar legal agreement) for which regulated land use approval is sought, or by the owner's designated agent. The applicant or a designated representative shall be present at all scheduled review meetings, or consideration of the proposal may be tabled due to the absence.

(4) *Notice of public hearing.* Upon receipt of a complete application, site plan, and attachments, the planning commission shall schedule a public hearing on the request. No more than 15 days and not less than five days prior to the date of the public hearing, a notice of the hearing shall be published in a newspaper of general circulation in the city and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice

may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall contain the following:

a. A description of the nature of the request for a use to be reviewed under the specific section of this section.

b. A legal description or address and/or an approximate sketch of the property which is the subject of the request.

c. A statement of when and where the public hearing will be held to consider the request.

d. A statement as to when and where comments will be received concerning the request.

(5) *Planning commission determination.* Following the public hearing, the planning commission shall review the application for the regulated use proposal, together with the public hearing findings and reports and recommendations of the appropriate departments and consultants. The planning commission shall deny, approve, or approve with conditions requests for regulated use approval. Such decision shall include the standards relied upon, finding of fact, conclusions, approval or denial, and conditions, if any, attached to approval. Performance guarantees may be required by the planning commission, in accordance with section 2905, to ensure compliance with approval conditions.

(6) *Standards for granting regulated land use approval.* Notwithstanding the applicability of the following standards (general and specific) to the initial application, the planning commission may add conditions as to any particular use to preserve the public health, safety and welfare, except to the extent that the city is preempted from regulating a particular use due to the use being specifically regulated by state or federal regulations:

i. The submission of a detailed plan of operation/business plan that is sufficiently detailed to the satisfaction of the city attorney or administration.

ii. The location, scale, and intensity of the proposed use shall be compatible with adjacent uses and zoning of land.

iii. The proposed use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental to public health, safety, and welfare. Site layout shall be such that operations will not be objectionable to dwellings by reason of noise, fumes, glare or flashing lights.

iv. [Reserved.]

v. The proposed special land use shall be compatible and in accordance with the general principles and future land use configuration of the city's master plan and shall promote the intent and purpose of the Zoning Ordinance.

vi. The proposed use shall promote the use of land in a socially and economically desirable manner. The proposed use shall not adversely impact the social and economic well-being of those who will use the proposed land use or activity; residents and businesses; and landowners immediately adjacent; or the city as a whole.

vii. The proposed use must not be within 500 feet of a religious institution or building, a school, a nursery, or public library, another similar use or a single or multiple residential properties unless there is a finding that such condition has no adverse impact to the particular use under consideration.

viii. The proposed use is compatible with the surrounding properties or meets the current zoning regulations of the district or corridor in which it is proposed.

ix. The proposed use is located in a structure that is in substantial compliance with current zoning and building regulations. If the proposed use is to be located in a building which is not compliant

with the current zoning regulations, the building shall be modified to meet the ordinance standards to the extent feasible and shall be required to comply with all building regulations.

x. The proposed use is not likely to create a nuisance or disturbance to surrounding properties and also will not likely create a greater police presence.

xi. Where applicable the applicant has outlined a verification procedure which will be in place and will uniformly apply to all patrons/customers (i.e., a business must uniformly and consistently verify age or criminal records where those items are regulated and/or necessary).

xii. Where applicable, a security system is in place to monitor customer activity both inside and outside the business premises.

xiii. No owner or investor in the business has been convicted of a felony in the past seven years nor convicted of a misdemeanor involving moral turpitude, fraud, embezzlement, or the providing of false information.

xiv. Where applicable, the inventory or stock is sufficiently secured from intrusion by outsiders.

Depending upon the specifics or applicability of the request, additional conditions or requirements may be imposed by the planning commission.

(7) *Recording of planning commission action.* Each action taken with reference to a regulated land use proposal shall be duly recorded in the minutes of the planning commission. The minutes shall record the findings of fact relative to each special land use proposal, the grounds for action taken, and any conditions imposed in conjunction with approval. All records of proceedings shall be kept on file and made available to the public.

(8) *Effective duration of regulated land use approval.* Regulated land use approvals shall be granted to an individual applying for approval. Change in ownership or tenancy of the use will necessitate a review of the proposal by the administration and consultants and if deemed necessary, forwarded to the planning commission for re-review.

(9) *Amendments to regulated land uses.* When an application is received to expand or change the use, traffic pattern, or other elements of a regulated land use, the application shall be subject to the same procedures followed for an original approval of the land use.

(10) *Revocation of regulated land use approval.* Approval of a regulated land use proposal may be revoked by the planning commission if construction is not in conformance with the approved plans; there is a violation of any conditions on the approval; there is a deviation from the detail of the plan of operation/business plan submitted by the applicant or there is a substantial violation of any law, statute or ordinance applicable to the proposed use. In such a case, the administration shall place the previously approved regulated land use proposal on the agenda of the planning commission for consideration show cause hearing, and give written notice to the applicant at least 30 days prior to the hearing. The applicant shall be given the opportunity to present information to the planning commission. At the conclusion of the hearing, the planning commission shall render its decision with findings and determine what further action shall be taken. Should an adverse finding be made, the planning commission may impose sanctions consisting of reimbursement of expenses incurred by the city related to the hearing. No appeal shall be taken from this hearing except as allowed by law to the circuit court. In the instance of a revocation of the regulated use, such action shall thereafter be sufficient to require any additional similar use to be treated in the manner as though it were an original application for a regulated use under this section of the Zoning Ordinance.

(Ord. No. 2012-02, pt. I, 3-26-2012)

ARTICLE 27. SITE PLAN APPROVAL

Sec. 2700. Applicability.

(a) *Site plan review not required.* Except as may be specifically required in this section, the site plan review requirements of this section do not apply to single-family detached and two-family dwellings and their accessory buildings and uses. In addition, site plan review is not required for the addition of landscaping or the performing of minor repairs or replacements to any building having a value of less than $5,000.00, so long as said landscaping, repairs or replacements are in accordance with, and does not modify or alter, the existing approved site plan.

(b) *Site plan review required.* A site plan shall be submitted to the planning commission for review and approval for the following:

(1) Any permitted or special land use within the city, except for home occupations, as defined by section 3903;

(2) Any modification and/or amendment to a plan that has previously received conditional use or special project approval from the planning commission;

(3) Any new construction, except single-family detached and two-family dwellings and their accessory buildings and uses including home occupations, as defined by section 3903;

(4) Any development or use for which submission of a site plan is required by any provisions of this article;

(5) Any proposal to construct, move, relocate, convert or structurally alter a building, including accessory buildings, except single-family detached dwellings and their accessory buildings and uses. A structural alteration shall be defined as one that changes the location of the exterior walls, height and/or the area of the building;

(6) Any use or development subject to the Michigan Condominium Act, Act 59 of the Public Acts of 1978, as amended;

(7) Any proposal to fill, excavate, or grade land, or temporarily store fill, which involves more than 15 cubic yards of earth being disturbed in any one-year period, except for gardening or for construction for which a permit has been obtained;

(8) Any change use group. A "use group" is defined as a collection of various uses, all of which share similar characteristics (such as parking requirements, traffic generation rates, etc.) and are identified by the type of business and/or service they provide i.e., retail, education, office, etc. Any change and/or conversion of use as permitted and regulated by this ordinance that may result in an increase in the intensity of the use by means of moving the use from one use group to another (office to retail, office to restaurant; retail to restaurant, etc.);

(9) Major facade changes, including, but not limited to, the following, shall be subject to full site plan review and approval by the planning commission:

a. Installation of new window and door openings where not previously existing;

b. Remodeling of upper story facades, if not already approved by planning commission;

c. Change of exterior building materials;

d. Other changes not noted above, that would alter the appearance of the entire building.

(10) Any proposal to have a designated or otherwise identifiable outdoor smoking area.

(c) *Administrative review*.

(1) In the following cases, the city manager and his/her assignee shall have the authority to approve a site plan without submission to the planning commission. Administration may require the submission of a site plan consistent with or less than the criteria set forth in sections 2701 to 2704 hereof:

a. Accessory uses incidental to a conforming existing use where said use does not require any variance, further site modifications, special use approval and is not located on a nonconforming lot or structure.

b. The conversion of an existing building from one use to another, use within the same use group (retail to retail, office to office, etc.) in the district provided the subject site is in conformance to the current ordinance standards, and has received site plan approval from the planning commission within the past five years of the date of the application.

c. Provision for additional loading/unloading spaces, parking and landscape improvements as required by this article.

d. Changes in use in a planned shopping center within the same use group, where off-street parking is not affected and a site plan has been approved within the past five years.

e. Installation of new awnings or other window/doorway details not previously existing.

f. Minor structural alterations to building intended to bring the building into compliance with the Americans with Disabilities Act requirements.

g. Establishment of a home occupation as defined by and subject to the provisions of section 3903.

h. Minor facade changes, which shall include the following:

1. Repair of existing exterior building material with similar materials only;

2. Replacement or repairs of existing doors and windows;

3. Replacement or repairs to existing awnings;

4. Replacement of light fixtures;

5. Restoration of original building architectural features (as supported by historical data);

6. Replacement of existing signage;

7. Installation of new signage;

8. Removal of nonconforming signage;

9. Addition of landscape elements such as planter boxes, etc.;

10. Installation of streetscape improvements such as benches, art pieces, etc.

i. Change of use in a "development ready" building i.e., an existing building within the CBD that has received site plan approval from the planning commission and is in conformance to the design criteria set forth in section 2118(1).

j. Any construction project or landscaping changes having a value of less than $5,000.00 and that will modify or amend the existing approved site plan.

(2) All facade/site changes shall be reviewed by the city planner to verify compliance with the ordinance and to provide recommendations to the city administration. The administration reserves the right to grant final approval (with or without changes) or forward the proposed changes to the planning commission. However, if applicant is not in agreement with any proposed change or condition for approval requested by administration, applicant may request full planning commission site plan review under section 2700(a).

(3) Information required. The city manager and/or his assignee shall require all applicable criteria set forth in sections 2701 to 2704 hereof to be met, and shall also have the authority to waive information required in section 2701 hereof which is not necessary to determine whether site plan review requirements have been met.

(4) Authority. The city manager and/or his assignee shall also have the authority to refer any site plan eligible for administrative review under section 2700.2 hereof to the planning commission and/or any consultants employed by the city for the purpose of supplementing or initiating a site plan review.

(5) Fees for administrative review shall be established by resolution of the city council which may assist in the reimbursement of consultant fees and time expended by the city staff.

(Ord. No. 2012-03, pt. I, 3-26-2012; Ord. No. 2013-17, 8-26-2013)

Sec. 2701. Site plan application information.

(a) *Required information.* The following information and documents are required as the site plan submittal. The planning commission is authorized to reduce the information required in cases where it finds such information unnecessary or inappropriate to consideration of the particular application.

(1) Applicant's name and address.

(2) Name of the proposed development.

(3) Signature of the legal owner, if not the applicant, and proof of ownership.

(4) Name, address, and phone number of the firm or individual who prepared the site plan.

(5) Complete legal description of the property.

(6) Date, including revision.

(7) Plans shall be drawn to a scale not larger than one inch equals 40 feet (i.e., plans at one inch equals 100 feet will not be accepted).

(8) North arrow.

(9) Inserted location sketch showing location of subject property in the mile section.

(10) The seal of one or more of the following: registered architect, registered civil engineer, registered land surveyor, registered landscape architect, or registered community planner.

(11) Existing and proposed grades at all lot corners and catch basins, proposed and existing building corners and entry points, and at a plan grid interval of not more than 50 feet along all lot lines, road centerlines, and on the site and beyond for at least 50 feet. Any proposed change of more than 24 inches in the existing grade shall require specific approval by the planning commission as part of a site plan, taking into consideration any potential adverse impacts on abutting residential properties or zones.

(12) Existing zoning and zoning of adjacent properties within 200 feet.

(13) Existing building(s) and street(s) on-site and within 200 feet of site.

(14) Centerline and existing and proposed rights-of-way lines of all street and roads on property or adjoining it. Illustrate the location of off-site driveways within 200 feet (may be included on a separate sheet at a smaller scale than one inch equals 40 feet; for example, one inch equals 100 feet is acceptable).

(15) Boundaries of subject property, including distances and bearings.

(16) Proposed buildings and structures on property, including: off-street parking areas, aisles and drives; walkways, walls, carports,; dimensions of improvements; and acceleration, deceleration, and passing lanes; designation of fire lanes and/or other areas in which parking will be prohibited.

(17) Trash receptacle location, size and details regarding method of screening in accordance with section 2807.

(18) Location, size, description and method of screening for mechanical equipment such as blowers, ventilating fans and air conditioning units in accordance with section 2120.

(19) All existing and proposed sidewalks or walkways within the right-of-way of adjoining roads or streets.

(20) Sufficient information describing the proposed use and occupancy of the premises to ascertain compliance with the use regulations of the district.

(21) As applicable, number of dwelling units, number of bedrooms, number of off-street parking spaces, number of off-street parking spaces per dwelling unit and per bedroom, percentage of land covered by buildings, total and usable floor areas for purposes of determining off-street parking requirements in accordance with section 2403.

(22) Demonstration of compliance with section 2404, off-street parking lot layout, construction and maintenance.

(23) Off-street loading and unloading for every building, structure, or part thereof occupied for manufacturing, storage, warehousing, retailing, wholesaling or other uses involving the receipt or distribution of vehicles or materials or merchandise.

(24) Proposed landscape treatments including pedestrian amenities and screen walls if required in accordance with article 28.

(25) Landscaped stabilization zones for development abutting the Clinton River, Paint Creek and/or Stony Creek in accordance with section 2805.

(26) Tree survey identifying the location and type of all trees seven inches or greater diameter at breast height and all conifers greater than 20 feet in height in accordance with section 20-62 [of the Code of Ordinances].

(27) Description of utilities, including: storm drainage; sewage disposal; electrical distribution; telephone and/or television system; natural gas distribution; exterior lighting; water distribution and source; fire hydrant locations; proposed method of solid waste storage, collecting and disposal.

(28) The covering letter, signed by the owner and prospective developer holding an equitable interest in the property, shall include: legal description and acreage of property; existing zoning classification and proposed zoning classification, if different; general description of proposed development; and estimated timetable of development.

(29) The site plan shall be accompanied by architectural sketches showing elevations (front, side and rear views), types of proposed facing materials, maximum heights of the building under consideration, and a roof plan of any proposed equipment to be located on the rooftop. Projects must submit adequate detail to demonstrate compliance with sections 2116, residential infill housing development standards, and section 2118, architectural guidelines and standards for nonresidential and mixed-use buildings and projects, where applicable. In RM-1, RM-2, O-1, O-2, B-1, CBD, and RP , T, DE-1, DE-2, MU, MU-2 Districts, the site plan package shall also include architectural sketches showing the relationship of the subject building to buildings located on immediately abutting sites and within 200 feet, including any located to the rear. In order to clearly demonstrate the impact of the proposed building height and bulk on neighboring buildings, one of the following shall also be provided:

a. A "block form model" or "study model" of the proposed building and all buildings on adjoining sites showing the size, shape, roofline, and major building features like doors and windows; or

b. A color photograph of the site and its adjoining buildings with the proposed new building drawn or painted, in scale and proper perspective; or

c. An active, computer generated video display of the proposed building that demonstrates its relationship to all adjoining buildings in terms of height, setbacks, and building bulk.

In cases of minor structural alterations or modest additions to existing buildings, the planning commission may waive this requirement where they find that it would not be necessary for their thorough consideration of the site plan.

(30) Site plans must demonstrate compliance with the applicable supplementary district regulations of article 21.

(31) As applicable, the site plan submittal shall be accompanied by an application form, furnished by the administrative official, for rezoning, conditional use, or zoning compliance permit.

(32) Exterior lighting plan and design in accordance with section 2306.

(33) The location of any ground mounted signs shall be shown on the site plan. Detailed information required by section 2208 may be submitted concurrent with the site plan or may be deferred until application for sign permit review.

(34) Upon request by the city for special project and conditional uses, the applicant shall, to the extent practical and available, provide information regarding the financial impact the project will have on the city including, but not limited to the following:

a. Documentation supporting the financial representations made.

b. Documentation supporting jobs created or to be created in the city.

c. Documentation supporting representations made concerning anticipated taxable value additions for the city.

d. Documentation supporting representations made concerning impact of project to the city's infrastructure and utilities.

For all other projects requiring site plan reviews, the applicant may provide such financial impact information, but is not required to do so.

(35) For all special projects proposed under the special projects ordinance (section 2115) that involve historical preservation or rehabilitation, the applicant shall provide a report and supporting documentation required under section 2115(b)(7).

(36) For projects proposing a designated or otherwise identifiable outdoor smoking area, applicant shall submit a plan showing the smoking area and the location of all entrances, windows and ventilation systems of the applicant's building and any adjacent buildings, as well as the details of trash and smoking receptacles, benches and seating areas.

(b) Optional information. The following information and documents are not required, but may be provided by the applicant as part of the site plan submittal.

(1) Information may be provided regarding the development timelines of the project including, but not limited to:

a. Documentation supporting the timeline representations made.

b. Documentation concerning necessary property acquisition.

c. Documentation concerning project development or timing requirements (i.e. infrastructure, facility or equipment needs), client servicing needs or timing factors, or business process needs or expectations (i.e. utility utilization).

(Ord. No. 2008-04, art. 1, 3-10-2008; Ord. No. 2011-02, 2-14-2011; Ord. No. 2013-01, 1-14-2013; Ord. No. 2013-17, 8-26-2013; Ord. No. 2014-08, 7-14-2014)

Sec. 2702. Preapplication conference.

(a) Upon request of the applicant, a preapplication conference shall be granted with the planning commission or the zoning administrator, to facilitate clarification of requirements before undertaking preparation of preliminary site plans and information.

Sec. 2703. Action on site plan.

(a) *Application submittal and planning commission consideration.*

(1) Upon receipt of an application for site plan approval, city administration will submit the application to the city's planning consultant for initial review to determine whether materials submitted are complete and ready for planning commission consideration. If not complete, applicant will be notified of deficiencies and advised that resubmittal will be required.

(2) Once the applicant's site plan application is deemed complete and ready for planning commission consideration, the applicant's site plan application package, along with the planning consultant's review letter, will be submitted to planning commission for consideration at the next available planning commission meeting.

(3) At the planning commission meeting, the planning consultant will provide the consultant's review, and the applicant will present the project and address outstanding items or questions raised by the planning consultant. Planning commission will either set the matter for public hearing at the next available planning commission meeting (with or without requested plan modifications) or if not deemed ready for public hearing, may direct the applicant to return to a future planning commission meeting with a revised site plan application package.

(4) Once planning commission sets the required public hearing, the city will send out notices and advertise the public hearing. The notice of public hearing shall be published in a newspaper of general circulation in the city and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet, regardless of whether the property or occupant is located in the City of Rochester. The notice shall be given not less than 15 days before the public hearing. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, business or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas or organization, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

a. State that a public hearing has been set.

b. Indicate the property, which is the subject of the request. The notice shall include a listing of all existing street addresses within the property.

c. State when and where the public hearing will be held.

d. Indicate when and where written comments will be received concerning the request.

(5) After the public hearing, planning commission will approve, disapprove, or request modification of the site plan and/or additional information. A resubmittal by the applicant of a modified site plan will be acted on by the planning commission within 45 days after receipt of the modified site plan and additional information.

(b) The approval of a site plan under this section does not waive the requirement for a zoning compliance permit or a certificate of occupancy. In any case where rezoning of the land would be required to allow the proposed development and/or use of the property as provided for in the site plan, approval of the site plan by the planning commission shall be considered contingent upon rezoning of the subject property by the city council; such site plan approval shall not be construed as any assurance of such rezoning.

(c) Where the development and/or use of the subject property would require the approval and recording of a plat, the approval of the site plan by the planning commission shall not be construed to assure any action by any other agency, nor shall it be construed as necessarily establishing compliance with the subdivision control ordinance or any other ordinance.

(d) In the case where a site plan is required, the administrative official shall not issue a zoning compliance permit or building permit except for plans, specification, and usage that conforms to the site plan as approved by the planning commission.

(e) Failure to comply with and/or deviate in any material way from an approved site plan shall constitute a violation of the zoning ordinance pursuant to article 37. For purposes of this section, a "material" deviation shall include, but is not limited to, a deviation from specific requirements, conditions and/or limitations of the city ordinances, the planning commission, or building codes, such as height, setbacks, parking, safety, screening, buffering, noise, lighting and square footage requirements. A material deviation shall also include a change in color or the substitution of lesser quality of exterior materials from that which was presented for approval.

(Ord. No. 2011-02, 2-14-2011; Ord. No. 2022-02, § 1, 9-26-2022)

Sec. 2704. Criteria for site plan approval.

The planning commission shall use the following criteria in evaluating a site plan submittal:

(1) Has the required information been furnished in sufficiently complete and understandable form to allow an accurate description of the proposed use(s) and structure(s) in terms of density, location, area, height, bulk, placement, setbacks, performance characteristics, parking, and traffic circulation?

(2) Are there ways in which the configuration of uses and structures can be changed which would improve the impact of the development on adjoining and nearby properties, persons, and activities, and on the community, while allowing reasonable use of the property within the scope of district regulations and other regulations of this ordinance that are applicable to the property and proposed use and structures?

(3) The extent to which natural features and characteristics of the land will be preserved; the regard given to existing large trees, natural groves, water courses, and similar natural features that would add attractiveness to the property and environs if they were preserved; the preservation of the natural drainage system, the dedication and/or provision of landscaped stabilization zones described in section 2803 along Paint Creek, Stony Creek, and the Clinton River, natural buffering, and other techniques for preservation and enhancement of the physical environment.

(4) Are there ways in which the design of the building and its architectural or decorative elements can be modified to improve the impact on adjoining properties and uses, particularly with regard to its compatibility with the traditional character of the city's downtown business district, when appropriate?

(Ord. No. 2002-03, § 2, 3-25-2002)

Sec. 2705. Definitions.

(a) As used in this ordinance, the term "site plan" includes the documents and drawings specified in this zoning ordinance necessary to ensure that a proposed land use or activity is in compliance with this zoning ordinance and state and federal statutes.

(b) The review and approval of site plans shall be by the city planning commission.

(c) The site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change conforming to this zoning ordinance received the mutual agreement of the land/owner and the city planning commission.

(d) A site plan shall be approved if it contains the information required by this zoning ordinance and is in compliance with this zoning ordinance and the conditions imposed hereunder pursuant to section 2604, conditions of approval, other applicable ordinances, and state and federal statutes.

Sec. 2706. Conformity to approved site plan required.

(a) Following approval of a site plan by the planning commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this article and subject to sanctions set forth in the City Code.

(b) Upon completion of the required improvements per the approved site plan, the city shall inspect the property and issue a certificate of occupancy.

(c) Any minor variations or changes to the site plan as defined in section 2700.2(a) may be approved by the city manager and his/her assignee and shall be reported to the planning commission after issuance of the certificate of occupancy. Any other changes to the site plan shall require the submission of an amended site plan indicating the change and will require planning commission approval.

(Ord. No. 2012-03, pt. II, 3-26-2012)

ARTICLE 28. LANDSCAPING, SCREEN WALLS AND WOODLANDS PROTECTION[2]

Sec. 2800. Landscaping plan.

A landscaping plan shall be provided as a part of all required site plans, subdivision plats and condominium plans that demonstrates the following:

(1) The landscaping plan may be combined with the site plan and processed as a part thereof; if the landscaping plan is submitted separately, it shall be subject to the procedural and informational requirements of a site plan. The landscaping plan shall specify: ground cover; location, quantities, species, and size of plants materials; berms, surface drainage and outlet; location of existing trees having caliper of six inches measured at 4½ feet above ground level, and designation of trees to be retained. It shall be unlawful for the owner or developer of any property to remove existing trees and/or vegetation after submitting building plans, plot plans and/or site plans; or within 12 months prior to submitting such plans, except in conformance with section 2808. Nothing in this subsection

[2][**Reference note—**Whenever landscaping (including greenbelts) or screen walls may be required by this ordinance, or where existing trees are proposed for removal, the following requirements shall be satisfied.]

shall be construed to prevent the removal of a diseased tree or a tree that has become dangerous due to storm or similar damage, provided the city has granted permission to remove such tree(s).

(2) Provisions for protecting trees on-site and on adjoining properties during construction, and preservation of trees in connection with grading and drainage shall be provided. All trees to be retained shall be protected from heavy equipment, material storage, and other construction activities by temporary fencing at the drip lines and posting of signs prohibiting encroachment with that area during construction.

(3) Wherever a greenbelt is required the composition and relative quantities of plant materials shall be selected to achieve substantial visual screening throughout all seasons of the year.

(4) Landscaping shall be provided in all required front setbacks, including those abutting side streets.

(5) Minimum requirements established. A minimum of ten percent of the total site area of any use requiring site plan approval shall be developed as landscaped open space. All such minimum required open space shall be located in a front, side and/or rear yard. Pedestrian plazas, planters, and other decorative elements may be included in such landscaped areas. The specific location of all required landscaped areas shall be chosen to provide the greatest visual and acoustical benefit to nearby residences and neighborhoods, as determined by the planning commission.

(6) Plant species used for required landscaping and greenbelts shall be chosen as follows:

a. Trees and shrubs should be selected that can tolerate our climatic zone, as well as, the stresses particular to the site, such as existing shade, salt tolerance if near the street, heat or scorch residence if in a parking island, disease and insect resistance, and the like.

b. Certain tree species shall not be used if they are on the city's prohibited list or they are considered less desirable because of overplanting. Information on overplanted species will be provided by the city's parks superintendent upon request of an applicant.

(7) The city's current tree policy manual shall be used as the guide for determining proper spacing of specific species and for guidelines regarding planting within clear vision triangles formed at street and driveway intersections.

Sec. 2801. Pedestrian amenities and landscape requirements.

In accordance with the City of Rochester's adopted design guidelines, landscaping in the city's Central Business District shall be designed to encourage and promote pedestrian activity throughout the area. Pedestrian street furniture and amenities such as benches, trash receptacles, newspaper stand, bicycle racks, and lighting fixtures shall be consistent with the character of the surrounding architecture and shall be standardized designs and style selected and approved by the city and the downtown development authority in order to establish and maintain an identity for the downtown district. Public artwork and outdoor cafes shall be also encouraged within the district. Approved amenities shall be incorporated into required landscape plans for proposed development in the district. In addition to the applicable landscape requirements of section 2800, the following requirements apply to development within the CBD:

(1) *Pavement and landscape materials.*

a. An unobstructed pedestrian path of eight feet shall be maintained in front of all buildings in the CBD, as follows:

1. On Main Street, the unobstructed path shall be eight feet.

2. On Walnut Street the unobstructed path shall be at least six feet.

3. On all other streets in the CBD, the unobstructed path shall be at least five feet.

b. Textured pavement material including approved brick or pigmented concrete pavers should be used to distinguish pedestrian pathways within the district.

c. For healthy growth and maintenance, shrubs and plantings shall be placed in planting beds rather than turf areas. Low water-requiring plants shall be selected where possible.

(2) *Pedestrian amenities.*

a. Approved amenities including landscape beds and street furniture shall be placed in the five-foot space between the curb face and the eight-foot-wide pedestrian path designated as the amenity zone. Planting beds and pedestrian amenities shall be located a minimum of 2½ feet from the curb face where existing on street parking occurs to prevent conflict with pedestrian access to parked vehicles. In areas where travel lanes adjoin the curb all amenities shall be set back a minimum of 3½ feet.

b. The use of planter walls a minimum of 2½ feet in height should be encouraged to provide for additional seating opportunities within the district.

c. Bicycle racks are encouraged in the district at a rate of one per each 20 parking spaces available in the district. Bicycle parking spaces shall be a minimum of two feet by six feet in area with adequate room for maneuvering. Bicycle racks located in amenity zones shall be placed near building entrances or situated so that they are visible from inside the adjacent building, but not within the street right-of-way unless they are city-owned or sponsored by the DDA.

d. Outdoor lighting shall be consistent with the requirements of section 2306. Approved pedestrian lighting fixtures shall be used and shall provide a minimum of one footcandle of low-intensity high quality light for uniform visibility and pedestrian safety.

e. Required amenity zones shall include a minimum of three or more pedestrian amenities. Amenities include but are not limited to:

1. Approved trash receptacles.

2. Approved benches/low screen walls.

3. Bicycle racks.

4. Container plants.

5. Public art.

6. Pedestrian lighting.

7. Street trees.

f. Applicants shall refer to the appendix A of the city's design guidelines regarding specifications for approved paving materials as well as pedestrian furniture such as seating, bicycle racks, trash receptacles, and light fixtures. See specific fixtures and pavement types for the CBD identified in appendix A of the city's design guidelines.

(Ord. No. 2004-05, 3-22-2004)

Sec. 2802. Reserved.

Editor's note(s)—Ordinance No. 2011-02, adopted Feb. 14, 2011, deleted § 2802, which pertained to street trees, and derived from Ord. No. 2004-06, adopted March 22, 2004. The user is directed to ch. 20, art. II, of the Code of Ordinances for similar provisions.

Sec. 2803. Establishment.

(a) Inspection for the acceptance of plant material will be made during the September following the period of establishment. This period of establishment shall start at the completion of all the planting required for the entire project and shall extend through a complete growing season consisting of the months of June, July, and August. During the period of establishment the developer shall be responsible for planted materials; plants which fail to survive shall be removed and replacement planting shall be completed during the next planting season.

(Ord. No. 2004-07, 3-22-2004)

Sec. 2804. Screen walls.

(a) Wherever a nonresidential use adjoins a residential district, a screen wall shall be provided by the nonresidential use as specified below. For purposes of this section, a parking lot of four or more spaces is a nonresidential use.

(b) Wherever a nonresidential use adjoins a residential use in a nonresidential district, screening shall be installed and maintained by the nonresidential use along lot lines in accordance with the below requirements; provided, however, that the planning commission may approve in substitution for a masonry wall, a wood screen or other substitutions described in subsection (e)(5) of this section, or may waive screening requirements where no substantial benefit would result from the screening. The height of a required wall shall be measured from the residential side; provided, however, that no such wall shall exceed eight feet in height as measured on the nonresidential side in office or commercial districts. If the planning commission determines that a wall is required on the residential side which will result in a height of more than eight feet on the business side, the plans shall provide for a stepped or terraced design, with appropriate landscaping, so that no more than an eight-foot-high wall is necessary on the business side.

(c) Wherever a wall is not required by this ordinance by virtue of its location in a residential district, it shall nevertheless be subject to the design standards and procedures of this section.

(d) A screen wall shall be installed along all lot lines of the nonresidential use where the lot lines adjoin a residential district. In the case of a parking lot, a screen wall shall be installed to screen the parking lot from a residential district separated from the parking lot property by a right-of-way of less than 86 feet width.

(e) The design plans for the screen wall shall be reviewed and approved or disapproved by the city planning commission. The design standards shall be as follows:

(1) Along side and rear lot lines of the nonresidential use, the wall height required by the planning commission shall be measured from the prevailing grade of the residential use being protected.

(2) Along the front lot line or corner side lot line, the wall shall be 4.5 feet in height from the prevailing grade of the nonresidential property adjoining the wall.

(3) Where a setback of a parking lot from a front lot line or corner side lot line is required under section 2404(4), no screen wall shall extend more than one foot into the applicable parking lot setbacks.

(4) The wall shall be of masonry construction, be designed to well withstand frost heave, hydrostatic pressure, the effects of weather, and be protected from vehicles by bumper guards or setbacks. The appearance of the wall in terms of material, design, and workmanship shall be beneficial to the residential districts.

(5) The planning commission may: approve in partial or complete substitution for the wall(s) the use of existing and or proposed topography, dense vegetation, or other natural or manmade features that would produce substantially equivalent results of screening, and durability; approve reduction or increase in wall height where a lesser or greater height is found appropriate based on considerations of

topography, sight lines, and distances; approve variations in the design standards for reasons of topography or characteristics peculiar to the site, its usage, and environs. In taking such actions, the planning commission shall take into account that the principal purpose of the wall(s) is to screen nonresidential activities, including parking, loading and noise, from nearby residential districts. In such cases where the planning commission finds that there would be no substantial need for a screen wall, the requirements of this section may be waived, reduced, or substituted. For example, the planning commission might find that a church, school, or park in a residential district without a screen wall would pose no significantly adverse effect on adjoining residential areas. The basis for such decision shall be recorded in the minutes of the planning commission.

(f) The design plans of the screen walls shall be incorporated with the site plan submittal, if a site plan is required, in accordance with article 27 of this ordinance; otherwise the design plans of the screen wall shall be subject to the informational requirements of section 2701 of article 27, except subsections (12), (13), and (15).

(g) The scale of the plans shall be as follows:

(1) Typical cross section and elevations of the wall shall be one inch equals one foot.

(2) Overall plan of the wall shall be not less than one inch equals ten feet.

(3) Both the cross section and plan drawings shall clearly show the relationship of the wall to adjoining properties and buildings in terms of grades, drainage, distances, and screening effect. The materials and dimensions of the wall shall be specified.

(Ord. No. 2004-07, 3-22-2004)

Sec. 2805. Landscaped stabilization zones.

All development in every zone abutting the Clinton River, Paint Creek and/or Stony Creek shall be required to establish a landscaped stabilization zone along the banks of the waterway for erosion control and protection of the waterway banks. Landscaping with appropriate wetlands or stream bank plant materials shall be the only activities permitted within the landscaped stabilization zone. No construction of buildings, fences, retaining walls or the like shall be permitted. The design of the landscaping and the type of plant materials chosen shall be intended to stabilize the banks, prevent erosion, and protect and improve the area adjacent to the waterway for scenic enjoyment and public use at locations identified by the planning commission and city council. Landscaped stabilization zones shall be provided as follows:

(1) On all properties abutting Stony Creek, the owner or developer shall establish and maintain a landscaped stabilization zone of 30 feet wide above the base flood elevation, as identified on the flood insurance rate map of the Federal Emergency Management Agency.

(2) On all properties abutting the Clinton River and Paint Creek, the owner or developer shall establish a landscaped stabilization zone of 30 feet wide above the base flood elevation, as identified on the flood insurance rate map of the Federal Emergency Management Agency. The owner or developer may, at his/her option, grant an easement to the city permitting public access and development of a public walkway. Once this easement has been granted to the city, control of public access and the maintenance of the plant materials within the easement shall be the responsibility of the city. Nothing in this section shall preclude the city from acquiring an easement for public access through negotiation with the owner or by condemnation proceedings.

ARTICLE 29. ADMINISTRATION AND ENFORCEMENT

Sec. 2900. Administration and enforcement.

(a) An administrative official designated by the legislative body shall administer and enforce this ordinance. He may be provided with the assistance of deputy administrative officials as the legislative body may direct.

(b) If the administrative official shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

Sec. 2901. Duties and limitations of the administrative officials.

(a) The administrative official shall have the authority to grant zoning compliance permits and certificates of occupancy, and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance. It shall be unlawful for the administrative official to approve any plans or issue a zoning compliance permit for any excavation, construction or use until he has inspected such plans in detail and has found them in compliance with this ordinance. To this end, the administrative official shall require that every application for a zoning compliance permit for excavation, construction, moving, alteration, or change in type of use or types of occupancy, shall be accompanied by a written statement and plans or plats drawn to scale showing the following in sufficient detail to enable the administrative official to ascertain whether the proposed work or use is in conformance with this ordinance:

(1) The actual shape, location, and dimensions of the lot. If the lot is not a lot of record, sufficient survey data to locate the lot on the ground.

(2) The shape, size, and location of all buildings or other structures to be erected, altered, or moved, and of any other buildings or other structures already on the lot.

(3) The existing and intended use of the lot and of all structures upon it.

(4) Such other information concerning the lot or adjoining lots or other matters as may be essential for determining whether the provisions of this ordinance are being observed.

(b) If the proposed excavation, construction, moving, alteration, or use of land as set forth in the application is in conformity with the provisions of this ordinance, the administrative official shall issue a zoning compliance permit. If an application for such permit is not approved, the administrative official shall state in writing on an appropriate denial form the cause for such disapproval.

(c) The administrative official may accept a preliminary application and a lesser number of submitted documents than those listed above in situations where a basic clarification is desired ahead of proceeding with further technical work; and the administrative official may on such preliminary submittal take the formal action of tentative denial or tentative approval.

(d) Issuance of a zoning compliance permit shall in no case be construed as waiving any provision of this ordinance. The administrative official is under no circumstance permitted to grant exceptions to the actual meaning of any clause, order, or regulation contained in this ordinance to any person making application to excavate, construct, move, alter, or use either buildings, structures, or land. The administrative official is under no circumstance permitted to make changes to this ordinance or to vary the terms of this ordinance in carrying out his duties.

(e) The administrative official shall not refuse to issue a permit when the applicant complies with conditions imposed by this ordinance. Violations of contracts, such as covenants or private agreements, which may result upon the granting of said permit, are not cause for refusal to issue a permit.

(f) When the legislative body has officially adopted a plan under the Rehabilitation of Blighted Areas Act, Act 344, [Public Acts of] 1945, as amended, or Mapped Improvements Act, Act 222, [Public Acts] of 1943, or Neighborhood Area Planning Act, Act 208, P.A., as amended, the administrative official shall not issue a permit under the provisions of the ordinance where the proposal is not in compliance with the plan adopted under one of the above acts as it pertains to that particular lot.

Sec. 2902. Zoning compliance permits.

(a) It shall be unlawful to commence or conduct any of the following until the administrative official has issued a zoning compliance permit for such work or change:

(1) The excavation, construction, reconstruction, repair, moving, or alteration of:

a. Any building or structure for which a building permit is required by the building code; or

b. Any parking lot, sign (see definition), tower, bridge, dock, and any structure having a cost or value of more than $500.00.

(2) A change in the use or occupancy of any building or land to a type of use or occupancy which is not expressly permitted by the district's regulations specified in this ordinance.

(b) The zoning compliance permit shall include a certificate by the administrative official of his opinion that plans, specifications, and description of such use(s) and structure(s) do in all respects conform to the provisions of this ordinance. See section 2703[(d)] on conformance to an approved site plan.

(c) In all cases where a building permit is required, application for a zoning compliance permit shall be made coincident with the application for a building permit and in all other cases shall be made not less than ten days prior to the time when a new or enlarged use of a building or premises or part thereof is intended to begin. The application shall be made in writing to the administrative official on forms provided for that purpose. A record of all such applications shall be kept on file by the administrative official. Any zoning compliance permit issued under the provisions of this ordinance shall be valid only for a period of 12 months following the date of issuance thereof. When the administrative official receives an application for a zoning compliance permit which requires city planning commission conditional use, or other approval, he shall so inform the applicant.

Sec. 2903. Fees.

(a) Before any zoning compliance permit shall be issued, all inspection fees shall be paid in an amount fixed by a schedule established by ordinance of the legislative body.

Sec. 2904. Certificate of occupancy.

(a) No building or structure or use for which a zoning compliance permit has been issued shall be used or occupied until the administrative official has, after final inspection, issued a certificate of occupancy indicating his opinion that all the provisions of this ordinance are being complied with. The issuance of a certificate of occupancy shall in no case be construed as waiving any provisions of this ordinance.

(b) Change of use and/or tenancy in all nonresidential structures or properties shall require a new certificate of occupancy. Forms for obtaining a certificate of occupancy are available from the city clerk and any fees shall be established by resolution of city council.

(Ord. No. 2011-09, 6-27-2011)

Sec. 2905. Performance guarantee.

(a) As used in this section, [the term] "improvements" means those features and transactions associated with a project which are considered necessary by the administrative official to protect natural resources or the health, safety, and welfare of the residents of a city, and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening and drainage. The term "improvements" does not include the entire project which is the subject of zoning approval.

(b) To ensure compliance with a zoning ordinance and any conditions imposed under this ordinance, the city may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the city covering the estimated cost of improvements associated with a project for which a zoning compliance permit is sought, be deposited with the clerk of the city to ensure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the zoning compliance permit. The city may not require the deposit of the performance guarantee before the date on which the city is prepared to issue the permit. The city shall establish procedures under which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses.

(c) This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to Act No. 288 of the Public Acts of 1967, as amended, being sections 560.101 to 560.293 of the Michigan Compiled Laws.

ARTICLE 30. BOARD OF APPEALS

Sec. 3000. Establishment and procedure.

(a) A board of appeals is hereby established which shall be constituted, perform the duties, and exercise the powers provided for by the MZEA Act, Act 110, Public Acts of 2006, as amended, and this ordinance.

(b) The board of appeals shall consist of not less than five members, each to be appointed for a term of three years. Initial appointments shall be of one, two, and three years, respectively, so as nearly as possible to subsequently result in the appointment of an equal number of members each year, depending on the number of members; thereafter each member to hold office for the full three-year term. A successor shall be appointed not more than one month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

(c) The city council may appoint not more than two alternate members for the same term as regular members of the board of appeals. An alternate member shall sit as a regular member of the board of appeals in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall have the same voting rights as a regular member of the board of appeals.

(d) The city council may authorize the remuneration of the members of the board for attendance at each meeting.

(e) Members of the board of appeals may be removed from office by the city council for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure to do so constitutes malfeasance in office.

(f) The board of appeals shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the chairman and at such other times as the board may determine. The chairman or, in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The city clerk shall be

responsible for acting as secretary, and for providing secretarial services for the zoning board of appeals. The city attorney shall act as legal counsel for the board and shall be present at meetings upon request of the board.

(g) The board of appeals shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its official actions, all of which shall be a public record and be immediately filed in the office of the city clerk. A copy of each decision of the board shall be sent promptly to the applicant or appellant involved, the city manager, the chairman of the planning commission, and the mayor.

(h) The concurring vote of a majority of the members of the board shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which they are required to pass under an ordinance, or to affect a variation in an ordinance.

(i) The board of appeals shall fix a reasonable time for the hearing of the request and give notice in a newspaper of general circulation in the city. For requests for a variance or an interpretation or appeal which involves a specific parcel, notice shall also be given by mail or personal delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet regardless of whether the property or occupant is located in the city. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, business or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas or organization, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall be given not less than 15 days before the request will be considered. An affidavit of mailing or delivery of notices of the hearing shall be filed with the board by delivering the same to the secretary prior to the meeting at which the hearing is to be held. The notice shall:

    (1) Describe the nature of the request.

    (2) Indicate the property, which is the subject of the request. The notice shall include a listing of all existing street addresses within the property.

    (3) State when and where the request will be considered.

    (4) Indicate when and where written comments will be received concerning the request.

(j) Upon the hearing, a party may appear in person or by agent or by attorney.

(k) The decision of the board of appeals shall not become final until the expiration of five days from the date of entry of the order, and service of the order upon the applicant or appellant, unless the board shall find the immediate effect of the order is necessary for the preservation of property or personal rights and so certify on the record.

(Ord. No. 2009-07, pt. 5, 3-9-2009)

Sec. 3001. Powers and duties.

The board of appeals shall have the following powers and duties:

(1) *Appeals.* To hear and decide appeals from and review any order, requirements, decision, or determination made by an administrative official or body charged with the enforcement of the zoning ordinance.

a. An appeal may be taken by any person aggrieved by an officer, department board, or bureau of the city.

b. An appeal under this section shall be taken within 20 days by the filing with the officer or body from whom the appeal was taken and with the board of appeals a notice of appeal specifying the grounds for the appeal. Any appeal shall be in writing on a standard form available from the city clerk and accompanied with a payment of a fee in accordance with the schedule of fees adopted by the city council. The officer or body from whom the appeal is taken shall transmit to the board of appeals all the papers constituting the record upon which the action appealed from was taken.

c. An appeal stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the board of appeals after the notice of appeal is filed, that by reason of fact stated in the certificate, a stay would, in the opinion of the officer or body, cause imminent peril to life or property, in which case the proceedings shall not be stayed other than by a restraining order which may be granted by the board of appeals or by the circuit court.

d. In exercising the above powers, the board of appeals may so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision, or determination as in the board's opinion ought to be made in the premises, and to that end shall have all the powers of the officer or body from whom the appeal is taken.

(2) *Variances.* To authorize upon application in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special condition, a literal enforcement of the provisions of this ordinance would result in practical difficulties (e.g., dimensional requirements such as lot area and width regulations, building height regulations and yard width and depth regulations). The application for a variance shall not be construed as an appeal from a decision made by or an alleged error of the administrative official or body.

a. A written application for a variance shall be submitted demonstrating:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same district.

2. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.

3. That the special conditions and circumstance do not result from the actions of the applicant.

4. That the request relates only to the property that is under the control of the applicant, e.g., ownership, option, to purchase, long term lease.

5. That the application states the owner's full name and address and is signed by the owner if the owner is not the applicant.

6. That an application for the same variance has not been submitted in the previous 12 months unless the applicant can show there has been a change in the existing conditions.

b. Before granting a variance, the board of appeals shall make findings that: the requirements of subsection (2)a of this section have been met by the applicant for a variance; the reasons set forth in the application justify the granting of the variance; the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be

injurious to the neighborhood or otherwise detrimental to the public welfare; and the spirit of this ordinance shall be observed, public safety secured, and substantial justice done.

c. In granting any variance, the board of appeals may prescribe appropriate conditions and safeguards, which shall be in writing. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under article 37.

d. Under no circumstances shall the board of appeals grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

(3) *Interpretations.* To hear and decide questions that arise out of the administration of this zoning ordinance, including the interpretation of the zoning map. Article 2, subsection 7 empowers the board of appeals to interpret district boundaries where physical or cultural features on the ground are at variance with the zoning map.

(Ord. No. 2009-07, pt. 5, 3-9-2009)

Sec. 3002. Appeals from the board of appeals.

(a) Any person or persons, or any taxpayer, department, board or bureau of the municipality aggrieved by any decision of the board of appeals may seek review by a court of record of such decision, in the manner provided by the laws of the state and particularly by the MZEA Act, Act 110, Public Acts of 2006, as amended.

(Ord. No. 2009-07, pt. 5, 3-9-2009)

Sec. 3003. Meetings of board; freedom of information.

(a) The business that the board of appeals may perform shall be conducted at a public meeting of the board of appeals held in compliance with Act 267, Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date and place of the meetings shall be given in the manner required by the Open Meetings Act, Act 267, Public Acts of 1976.

(b) All records of the board zoning appeals and city planning commission shall be subject to the provisions of Act 442, Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(Ord. No. 2009-07, pt. 5, 3-9-2009)

ARTICLE 31. SCHEDULE OF FEES

[Sec. 3100. Fees to be paid in full; applicant responsible for engineering costs; inactivity on part of applicant.]

(a) Until all applicable fees have been paid in full, no action shall be taken on any application or appeal. The schedule of fees shall be set by resolution by the Rochester city council.

(b) In addition to the above fees, the applicant shall be responsible for all necessary engineering costs incurred by the city in processing applications for rezoning and/or site plan approval, and the city shall not be required to advance any of such costs but such costs shall be paid out of deposits of the applicant as provided herein. A deposit of 1½ percent of the total costs of estimated engineering improvements and services (as determined by the city engineer) shall be deposited by the applicant with the city before any such engineering costs are incurred. Thereafter, all engineering costs shall be deducted from said deposits as incurred from time to time. In the event said deposit shall be insufficient to cover all such engineering costs,

the applicant shall be required to deposit such additional sums as are determined by the city engineer to be necessary to completely recover the remainder of said engineering costs prior to the continuation of such engineering services. An applicant's failure to so deposit such additional sums shall result in a cessation of further engineering services by the city engineer and may constitute an abandonment, as provided below, all remaining deposits on hand shall be refunded to applicant.

(c) Inactivity on the part of an applicant for a period of 90 days or longer in the processing of a rezoning request and/or a site plan approval request, shall be deemed an abandonment of the application requiring the submission of a new application and repayment of the above fees, unless prior approval of the applicable board or commission is obtained for a longer period of delay due to extenuating circumstances.

ARTICLE 32. ZONING OF VACATED RIGHTS-OF-WAY

[Sec. 3200. Intent.]

(a) Whenever any street, alley, or other public right-of-way shall be vacated, such areas shall be zoned in the same zoning district as the property to which it attaches, unless such vacated area is otherwise zoned by the city council.

ARTICLE 33. ZONING OF ANNEXED AREAS

[Sec. 3300. Intent.]

(a) Any area annexed to the City of Rochester shall be zoned R-4, One-Family Residential District until such annexed area is otherwise zoned by the city council.

ARTICLE 34. AMENDMENTS

Sec. 3400. Intent.

(a) For the purposes of establishing and maintaining sound, stable, and desirable development within the territorial limits of the city, this ordinance shall not be amended except to correct an error in the ordinance or, because of changed or changing conditions in a particular area or in the municipality generally, to rezone an area, extend the boundary of an existing zoning district, or to change the regulations and restrictions thereof. An owner of land may voluntarily offer in writing and the city may approve, certain use and development of land as a condition to the approval of a rezoning consistent with the provisions of section 405 of the Michigan Zoning Enabling Act, Act 110, Public Acts of 2006, as amended (MCL 125.3101 et seq.).

(Ord. No. 2009-07, pt. 6, 3-9-2009)

Sec. 3401. Referral of amendment petition to planning commission.

(a) Upon receipt of the petition to amend this ordinance, which petition having been examined and approved as to form and completeness by the city clerk, the city council shall refer the same to the planning commission for study and report; and shall not enact the proposed amendment upon second reading until 30 days after such referral to the planning commission or until the planning commission makes its report to the city council, whichever first occurs.

Sec. 3402. Action of the planning commission.

(a) The planning commission shall review the petition and shall recommend to the city council such action as the commission deems proper.

Sec. 3403. Public hearing and notice thereof.

The city council shall not amend this ordinance or the zoning map until the proposed amendment has been submitted to the planning commission and the commission has held at least one public hearing and made a report thereon. The city council may adopt the proposed amendment, after receipt of the commission report, or refer the amendment again to the commission for a further report. Before adopting the proposed amendment, which has had a prior report from the commission, the city council shall hold one public hearing on the proposed amendment. Not less than 15 days notice of the public hearings shall first be published in an official paper or a paper of general circulation in the city and given by mail to each public utility company and to each railroad within the district or zones affected that registers its name and mailing address with the city clerk for the purpose of receiving the notice. In the case of a request for the rezoning of an individual property or of ten or fewer adjacent properties, not less than 15 days notice shall also be given by mail or personal delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within 300 feet of the subject property, and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or occupant is located within the City of Rochester. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, business or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas or organization, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. An affidavit of mailing shall be maintained. A hearing shall be granted a person interested at the time and place specified on the notice. The notice shall:

(1) Describe the nature of the request.

(2) Indicate the property, which is the subject of the request. For a request for the rezoning of an individual property or of ten or fewer adjacent properties, the notice shall include a listing of all existing street addresses within the property.

(3) State when and where the request will be considered.

(4) Indicate when and where written comments will be received concerning the request.

(Ord. No. 2009-07, pt. 7, 3-9-2009)

Sec. 3404. Effective protest to proposed amendment.

Upon presentation of a protest petition meeting the requirements of this subsection, an amendment to a zoning ordinance which is [the] object of the petition shall be passed only by a two-thirds vote of the city council. The protest petition shall be presented to the city council before final legislative action on the amendment, and shall be signed by one of the following:

(1) The owners of at least 20 percent of the area of land included in the proposed change.

(2) The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.

For purposes of this section, publicly owned land shall be excluded in calculating the 20 percent land area requirement.

Sec. 3405. Procedure for and content of amendment petitions.

(a) *Filing of petitions.* All petitions for amendments to this ordinance shall be in writing, signed and filed with the city clerk for presentation to the city council.

(b) *Contents of petition.* All petitions for amendments to this ordinance shall contain at least the following (without limiting the rights to file additional material):

(1) The petitioner's name, address, phone number, and interest in the petition, as well as the name phone number, and interest of every person having legal or an equitable interest in the land covered by the petition.

(2) The nature and effect of the proposed amendment.

(3) If the proposed amendment would require a change in the zoning map, a fully dimensioned map showing:

a. The land, which would be affected by the proposed amendment;

b. A legal description of such land;

c. The present zoning classification of the land;

d. Zoning classification of all abutting zoning districts; and

e. All public and private rights-of-way and easements bounding and intersecting the land under consideration.

(4) The alleged error in this ordinance, if any, which would be corrected by the proposed amendment, together with an explanation of such error which is alleged and reasons as to how the proposed amendment would correct the same.

(5) The changed or changing conditions, if any, in the area or in the municipality generally that make the proposed amendment necessary.

(6) All other circumstances, factors, and reasons, which the petitioner offers in support of the proposed amendment.

(7) A site plan, prepared in accordance with article 27; however, the planning commission may waive the requirement of a site plan or reduce its scope and contents if the planning commission decides that the nature of the proposed amendment and character of the subject land and surroundings do not necessitate such information.

(8) The amendment petition shall be accompanied by a filing fee to defray costs of processing the petition. The filing fee shall be as set forth in article [31].

(9) Conditional rezoning requests shall include the applicant's proposed offer of conditions. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process, but prior to the planning commission's public hearing. The applicant may voluntarily amend the conditions during the process of rezoning consideration. An owner may withdraw all or part of its offer of conditions at anytime prior to final rezoning action of the city council provided that, if such withdrawal occurs subsequent to the planning commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the planning commission for a new public hearing with appropriate notice and a new recommendation. The applicant may offer to add more restrictive conditions at the city council without requiring a new public hearing.

(Ord. No. 2009-07, pt. 8, 3-9-2009)

Sec. 3406. Criteria for amendment of the official zoning map.

In considering any petition for an amendment to the official zoning map, the planning commission and city council shall consider the following criteria in making their findings, recommendations and decision. The decision

on a proposed amendment shall include a statement of findings and conclusions which specifies the basis for the decision.

(1) Consistency with the goals, policies and future land use arrangement of the City of Rochester's master plan.

(2) Compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

(3) The compatibility of uses allowed in the proposed zoning district with surrounding uses and zoning.

(4) The capacity of city utilities and services to accommodate the uses permitted in the requested district.

(5) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.

(6) The boundaries of the requested rezoning district are reasonable and construction on the site will be able to meet the dimensional regulations for the zoning district listed in the schedule of regulations.

(7) The requested rezoning will not create an isolated and unplanned spot zone.

(8) An offer of conditions submitted as part of a conditional rezoning request shall bear a reasonable and rational relationship to the property for which rezoning is requested.

(9) Other factors deemed appropriate by the planning commission and city council.

(Ord. No. 2009-07, pt. 9, 3-9-2009)

Sec. 3407. Criteria for amendments to zoning ordinance text.

The planning commission and city council shall consider the following criteria for initiating amendments to this zoning ordinance text or responding to a petitioner's request to amend the ordinance text. The decision on a proposed amendment shall include a statement of findings and conclusions which specifies the basis for the decision.

(1) The proposed amendment would correct an error in this ordinance.

(2) The proposed amendment would clarify the intent of this ordinance.

(3) Documentation has been provided from city staff or the zoning board of appeals indicating problems and conflicts in implementation or interpretation of specific sections of this ordinance.

(4) The proposed amendment would address changes to the state legislation.

(5) The proposed amendment would address potential legal issues or administrative problems with the zoning ordinance based on recent case law or opinions rendered by the attorney general of the State of Michigan.

(6) The proposed amendment would promote compliance with changes in other city ordinances and county, state, or federal regulations.

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

(8) Other criteria as determined by the planning commission or city council which would protect the health and safety of the public, protect public and private investment in the city, promote implementation of the goals and policies of the master plan, downtown development plans, and sub-area plans, and enhance the overall quality of life in the City of Rochester.

(Ord. No. 2009-07, pt. 10, 3-9-2009)

Sec. 3408. Approval and adoption of amendment.

(a) Following amendment of this ordinance by the city council, one notice of adoption shall be published in a newspaper of general circulation in the city within 15 days after adoption. The notice shall include the following information:

(1) Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.

(2) The effective date of the ordinance.

(3) The place and time where a copy of the ordinance may be purchased or inspected.

(b) The filing and publication requirement in this section supersede Charter provisions relating to the filing and publication of city ordinances.

(c) The following administrative actions shall be taken upon approval of the amendment:

(1) The zoning text and or map shall be amended to reflect the new zoning classification or language. Map amendments for conditional rezonings should include a designation identifying that the property is subject to a statement of conditions.

(2) Conditional rezonings shall require the submittal of a formal written statement of conditions, which shall be incorporated by attachment as an inseparable part of the ordinance adopted by the city council. The statement of conditions shall:

a. Be in a form recordable with the Oakland County register of deeds and include a statement acknowledging that it is recorded.

b. Contain a legal description of the land to which it pertains.

c. Acknowledge that upon the rezoning taking effect, the use and development of the land shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by the statement of conditions.

d. Contain a provision acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land. Any person who establishes a development or commences a use upon such land shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the statement of conditions.

e. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

f. Specify that failure to comply with any of the conditions set forth in the statement of conditions shall constitute a violation of this zoning ordinance and shall be punishable accordingly.

g. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the document.

(d) The approved statement of conditions shall be filed by the city clerk with the Oakland County register of deeds. The city council shall have the ability to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the city or to any subsequent owner of the land.

(Ord. No. 2009-07, pt. 11, 3-9-2009)

Sec. 3409. Effect of conditional rezoning.

The following provisions shall apply to approved conditional rezonings:

(1) *Time period for establishing development or use.* Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the city council if:

a. It is demonstrated to the city council's reasonable satisfaction that there is a strong likelihood that the development and or use will commence within the period of extension and proceed diligently thereafter to completion; and

b. The city council finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

(2) *Reversion of zoning.* If approved development and/or use of the rezoned land does not occur within the time frame specified under subsection (1) of this section, then the land shall revert to its former zoning classification as set forth in section 405(2) of the Michigan Zoning Enabling Act, Act 110, Public Acts of 2006, as amended. The reversion process shall be initiated by the city council requesting that the planning commission proceed with consideration of the rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other zoning requests.

(3) *Subsequent rezoning of land.* When land that is rezoned with a statement of conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to subsection (2) of this section or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the city clerk shall record with the Oakland County register of deeds a notice that the statement of conditions is no longer in effect.

(4) *Amendment of conditions.* During the time period for commencement of an approved development or use specified pursuant to subsection (1) of this section or during any extension thereof granted by the city council, the city shall not add to or alter the conditions in the statement of conditions. The statement of conditions may be amended thereafter in the same manner as set forth in section 3405(b)(9).

(5) *City right to rezone.* Nothing in the statement of conditions nor in the provisions of this section shall be deemed to prohibit the city from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and the Michigan Zoning Enabling Act, Act 110, Public Acts of 2006, as amended (MCL 125.3101 et seq.).

(Ord. No. 2009-07, pt. 12, 3-9-2009)

ARTICLE 35. PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS

[Sec. 3500. Intent.]

(a) In their interpretation and application, the provisions of this ordinance shall be held to minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever

the requirements of any other lawfully adopted rules, regulations, or ordinances, the more restrictive or that imposing the higher standards shall govern.

ARTICLE 36. COMPLIANCE REGARDING VIOLATIONS

[Sec. 3600. Complaints.]

(a) Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the administrative official. He shall record properly such complaint, investigate with all due dispatch, take action thereon as provided by this ordinance, and make answer to the complainant within five days.

ARTICLE 37. PENALTIES FOR VIOLATION

[Sec. 3700. Violation constitutes misdemeanor.]

(a) Violation of the provisions of this ordinance, failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variance or conditional uses) or failing to comply with or build in conformance to an approved site plan shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500.00 or imprisoned for not more than 90 days or both and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

(b) The owners or tenant of any building, structure, premises, or part thereof, and architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and suffer the penalties herein provided.

(c) In addition to the above, should anyone fail to comply with any approval by any city board, commission or a building official including, but not limited to, failing to adhere to an approved site plan, landscaping plan, article 23 performance standards or any other plan or approval, the city may take any and all actions it deems necessary to remedy the noncompliance or deficiency. Such actions may include, but are not limited to, issuing citations, issuing stop work orders, seeking injunctive relief and requiring said person or entity to appear before the approving body or person to show cause why approval should not be revoked. Should the deviation, noncompliance or deficiency be deemed material by the approving body or person, such approving body or person may require compliance, add conditions and/or amend or revoke approval.

(d) Nothing herein contained shall prevent the municipality from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 2011-02, 2-14-2011)

ARTICLE 38. SEVERABILITY CLAUSE

[Sec. 3800. Validity of ordinance not affected by unconstitutional or invalid provision.]

(a) Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof other than the part so declared to [be] unconstitutional or invalid.

ARTICLE 39. DEFINITIONS

Sec. 3900. Intent.

For the purposes of this ordinance, certain terms or words used herein shall be interpreted as follows. Words and terms not herein defined shall have the meaning customarily assigned to them.

[Person.] The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

[Tense.] The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular.

[Shall, may.] The word "shall" is mandatory; the word "may" is permissive.

[Used, occupied.] The words "used" or "occupied" include the words "intended," "designed," or "arranged to be used or to be occupied."

[Lot.] The word "lot" includes the word "plot" or "parcel."

Sec. 3901. Definitions A—C.

Accessory use of structure means a use of structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

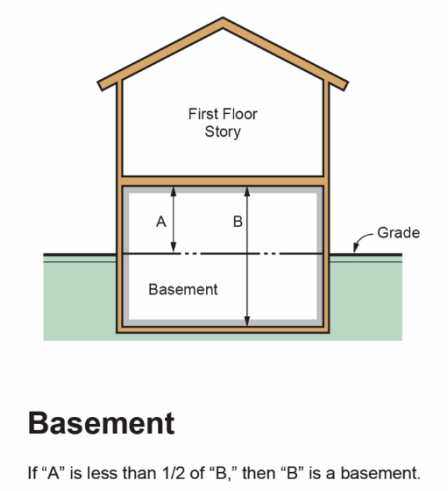
Adult bookstore means an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a separate segment or section devoted to the sale or display of that material.

Adult cabaret means a restaurant or tavern serving alcoholic beverages and featuring topless or bottomless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

Adult foster care facility. See definition of *State licensed residential facility.*

Adult motion picture theater means an enclosed building displaying film or materials, a significant portion of which includes matter depicting, describing or relating to specified sexual activities or specified anatomical areas, for observation by patrons of the building, or featuring topless or bottomless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

Basement means that portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.



Bed and breakfast home means a single-family residential structure that has six or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper, which are available for rent to overnight guests and serves meals at no extra cost to overnight guests.

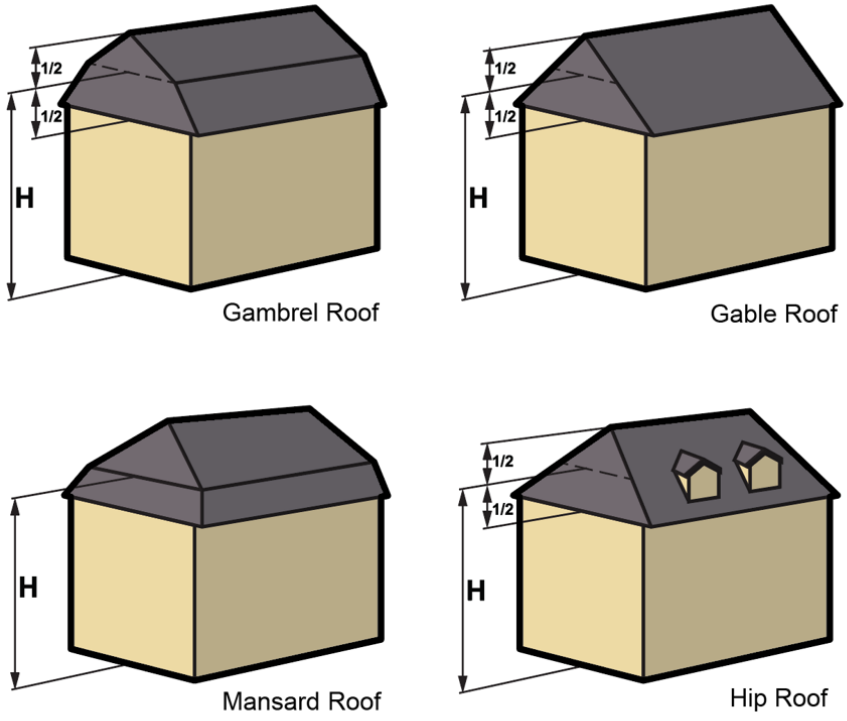
Bistro means a restaurant with a full-service kitchen, limited interior seating, limited bar area and seating, and additional seating for outdoor dining.

Breezeway means a structure or addition to a structure, without heat or air conditioning equipment that is more than six feet wide with a permanent roof and sidewalls or screens that may or may not connect the principal residence with one or more accessory buildings.

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

Building means any structure, either temporary or permanent, having a roof, including among other things tents, canopies, and carports.

Building height means the vertical distance measured from the established grade to the highest point of the roof's surface for flat roofs; to the deckline of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain, height may be measured from the average ground level of the grade at the building wall.



Clinic, psychological, means any use that includes two or more psychiatrists, psychologists, and similar professional, paraprofessional, medical and non-medical psychological counselors.

(Ord. No. 2004-12, 9-13-2004; Ord. No. 2009-07, pt. 13, 3-9-2009; Ord. No. 2009-21, pt. 1, 11-9-2009; Ord. No. 2010-10, § 3901, 4-26-2010; Ord. No. 2012-11, 8-13-2012)

Sec. 3902. Definitions D—E.

Deck means an exterior floor system supported on at least two opposing sides by an adjoining structure and/or posts, piers, or other independent supports.

Drive-in restaurant or refreshment stand means any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may also serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Dwelling, mobile home, means a detached residential dwelling unit designed for transportation, after fabrication, on streets or highways on its own wheels or on flatbed or other trailers and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operation, location on jacks or other temporary or permanent foundations, connection to utilities, and the like. A mobile home shall be one story in height, with a minimum body width of ten feet, a minimum floor area of 576 square feet, a maximum floor area of 1,000 square feet, built on a chassis, and designed to be used as a dwelling for long-term, continuous occupancy. A travel trailer is not a mobile home. Floor area and body width shall be measured to the exterior face of the exterior walls.

Dwelling, multiple-family, means a residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, single-family, or *dwelling, one-family,* means a detached residential dwelling unit other than a mobile home, designed for and occupied by one family only.

Dwelling, two-family, means a detached residential building containing two dwelling units, designed for occupancy by not more than two families.

Dwelling unit means one room or rooms connected together, constituting a separate, independent housekeeping establishment for one-family occupancy, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathroom, and sleeping facilities.

Entrance ramp means a roadway connecting a feeder road with a limited access highway and used for access to such limited access highway.

Essential services means the erection, construction, alteration, or maintenance by public utilities, municipal departments, or public commissions of underground, surface, or overhead gas, electric, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including streets, mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street lighting, poles and other similar equipment, and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities, municipal departments, or public commissions, or for the public health, safety, or general welfare, but excluding the construction or erection of:

(1) Buildings.

(2) Any of the following structures, unless the particular structure(s) and its location, height, and character have been approved by the city in conjunction with its approval of a subdivision plat:

   a. Any tower or pole over 35 feet in height;

   b. Any tank or other structure over four feet in height.

However, the repair, maintenance, or emergency replacement of any of the foregoing shall be considered an essential service.

(Ord. No. 2004-13, 9-13-2004)

Sec. 3903. Definitions F—H.

Family means one or more individuals, living together as a single housekeeping unit in one dwelling unit, all related by blood, marriage, or operation of law, and not more than three other individuals. Thus, if all of the individuals are unrelated, the maximum number shall be four.

Family child care home means 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 child care home" includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year. The home must be the bona fide private residence of the operator of the family care home. Family child care homes are a principal permitted use in One-Family Residential Districts.

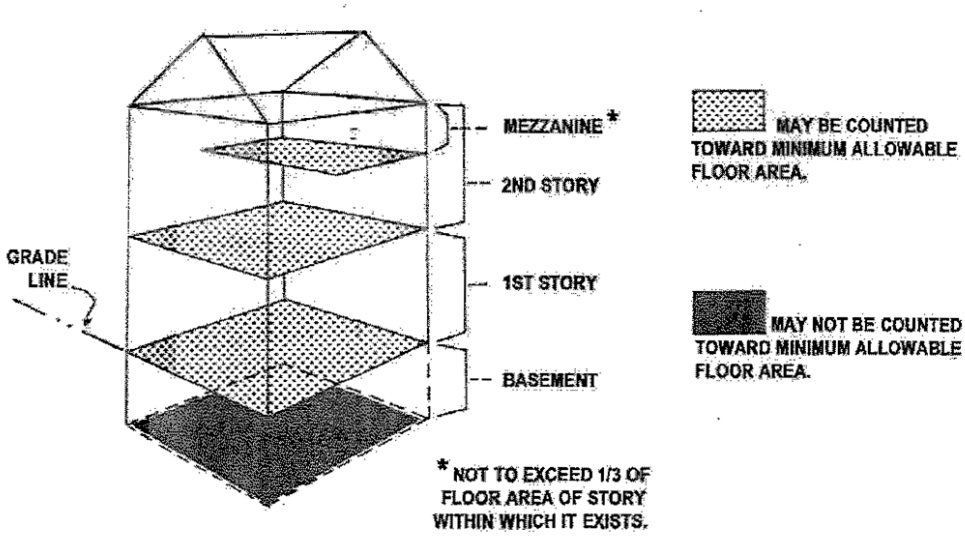
Farm [or]*farming* means, for purposes of this ordinance, a farm or farming means generally recognized farming, including livestock and poultry raising, dairying, horticulture, forestry; and similar agricultural uses of land and structures, except a farm operated wholly or in part for the disposal of garbage, sewage, rubbish, offal, and wastes from rendering plants.

Fence means any partition, structure or gate erected as a dividing marker, barrier or enclosure.

Floor area.

(1) For the purpose of computing the minimum allowable floor area in a residential, one-family dwelling unit, the sum of the horizontal areas of each story of a building shall be measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, or space used for off-street parking, breezeways, enclosed and unenclosed porches, and accessory structures.

(2) In the case of two family or multifamily dwellings, the minimum allowable floor area of a dwelling unit is the horizontal floor area of the dwelling unit measured to the interior face of the dwelling unit's perimeter walls, excluding hallways and common areas.



Floor area, gross (for purposes of computing parking requirements). [The term] "gross floor area" shall be the sum of the horizontal areas of the several floors of the building, including the basement, measured from the exterior faces of the exterior walls.

Garage, private. An accessory building or an accessory portion of the main building, designed and/or used primarily for the shelter and storage of vehicles owned or operated by the occupants of the main building.

Side-loaded garage means a garage where the garage door(s) face a side lot line.

Rear-loaded garage means a garage where the garage door(s) face the rear lot line.

Front-loaded garage means a garage where the garage door(s) face the front lot line.

Gasoline service station means a place for the dispensing and retail sale of motor fuels directly to users of motor vehicles, together with the sale of oil, grease, batteries, tires and vehicle accessories, and incidental repairs and services. Permissible uses do not include major mechanical and body work, straightening body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations. A gasoline station is not a repair garage nor a body shop.

Group child care home means 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. [The term] "group child care home" includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year. The home must be the bona fide private residence of the operator of the group child care home. Group day care homes are permitted as a conditional use in the O-1, O-2, B-1 and CBD Districts.

Group housing means housing occupied by a group of individuals not constituting a family, such as fraternity, sorority, orphanage, religious order, and similar groups.

Home occupation means an occupation conducted in a dwelling unit, provided that:

(1) No person other than members of the family residing on the premises shall be engaged in such operation;

(2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation; for purposes of this paragraph, the basement floor area shall be included in the dwelling unit's floor area to the extent of its usage by the home occupation;

(3) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one square foot in area, non-illuminated, and mounted flat against the wall of the principal building;

(4) No home occupation shall be conducted in any accessory building;

(5) There shall be no sales of goods on the premises in connection with such home occupation;

(6) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;

(7) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. 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 line voltage off the premises.

(Ord. No. 2009-07, pt. 14, 3-9-2009; Ord. No. 2009-27, § 3903, 12-21-2009; Ord. No. 2017-06, pt. I, 6-12-2017)

Sec. 3904. Definitions I—L.

Loading space, off-street, means space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filed. Required off-street space is not to be included as off-street parking space in computation of required off-street parking space.

Lot, for the purposes of this ordinance, means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Not more than 25 percent of the required lot area shall be under water. Such lot shall have frontage on a recorded or public street, and may consist of:

(1) A single lot of record;

(2) A portion of a lot of record;

(3) Combination of complete lot of record, of complete lots of record and portions of lots of record, or of portions of lots of record;

(4) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

Lot frontage means the front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under [the definition for] yards in section [3907].

Lot measurements.

(1) Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

(2) Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot; provided, however, that in determining lot frontage on odd shaped lots, if the lot abuts on the outside curve boundary of a curving street and as a result the side lot lines diverge toward the rear, the measurement of width may be taken at the front building line of the principal building; and provided further that, if the lot abuts on an inside curve boundary of a curved street wherein the lot lines converge toward the rear, the measured width shall be taken at the rear line of the principal building or 30 feet behind the front setback line, parallel to the street or street chord.

Lot of record means a lot which is part of a subdivision recorded in the office of the county register of deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot types. The diagram below illustrates terminology used in this ordinance with reference to corner lots, interior lots, and through lots.

In the diagram, "A" equals corner lot, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet on an interior angle of less than 135 degrees. See lots marked A(1) in the diagram.

In the diagram, "B" equals interior lot, defined as a lot other than a corner lot with only one frontage on a street.



Corner, Interior, and Through Lots

In the diagram, "C" equals through lot, defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Sec. 3905. Definitions M—R.

Mezzanine means an intermediate floor in any story occupying no more than one-third of the floor area of such story.

Open space means a tract or tracts of land set aside for the preservation and enjoyment of significant natural resources and/or natural features that is subject to public or private development restrictions or limitations.

Outdoor advertising business means provision of outdoor display space on a lease or rental basis only.

Overnight lodging facilities means commercial establishments including hotels, motels, inns and the like which provide lodging, meals, and other guest services.

Park means a tract of land, including any non-navigable water courses and water features located thereon, designated and used for active and/or passive recreation.

Parking space, off-street.

(1) For the purposes of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any street, walk, or alley, and so that any automobile may be parked and unparked without moving another. Each parking space shall comprise a net area of at least ten feet by 20 feet.

(2) For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the municipality.

Permanent roof means a non-seasonal roofing or cover system intended to remain in place and to provide year-round protection from sun, rain, snow and the like. This definition is not intended to include canvas or vinyl awnings or retractable covers of any kind.

Public utility means any person, firm, corporation, municipal department or board duly authorized to furnish, and furnishing under state or municipal regulations to the public: electricity, gas, steam, communications, telegraph, transportation, or water.

Raised patio means an exterior raised system, other than a deck, generally constructed with a retaining wall of brick, masonry, wood timbers, or the like and backfilled with soil, sand, or similar earth material and topped with a durable walking surface.

Restaurant means a building in which food is prepared and sold for consumption within the building, as opposed to a drive-in restaurant establishment where food may be taken outside of the building for consumption either on or off the premises.

(Ord. No. 2004-14, 9-13-2004; Ord. No. 2009-22, pt. 1, 11-9-2009; Ord. No. 2010-02, 1-11-2010)

Sec. 3906. Definitions S—T.

Satellite dish antenna means an accessory structure capable of receiving, for the sole benefit of the principal use, radio or television signals from a transmitter or transmitter relay located in planetary orbit.

Sign means any device designed to inform or attract the attention of persons not on the premises on which the sign is located.

Sign, off-site, means a sign other than an on-site sign.

Sign, on-site, means a sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

Significant portion, in the definition of *Adult motion picture theater,* shall mean or include either or both of the following:

(1) Any one or more portions of the display having a duration in excess of five minutes; and/or

(2) The aggregate of portions of the display having a duration equal to ten percent or more of the single display as a whole.

Conditional use means a use that would not be appropriate generally or without special restriction throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, and if subject to special restrictions, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as conditional uses, as provided for in this ordinance.

Specified anatomical areas means either human male genitals in a discernable turgid state, even if completely and opaquely covered, or the following if less than completely and opaquely covered:

(1) Human genitals or pubic regions.

(2) Human buttocks.

(3) Human female breasts below a point immediately above the top of the areola.

Specified sexual activities means the following:

(1) Human genitals in a state of sexual stimulation or arousal.

(2) Acts of human masturbation, sexual intercourse or sodomy.

(3) Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.

State licensed residential facility means a structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility Licensing Act, [Act 218, Public Acts of 1979,] MCL 400.701—400.737, or 1973 PA 116, MCL 722.111—722.128, and provides residential services for six or fewer persons under 24-hour supervision or care. Such facilities may include an adult foster care facility, foster family home, or foster family group homes and shall be considered a residential use of property for the purposes of zoning and a principal permitted use in all residential zones. This term shall not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

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

Story, half, means an uppermost story lying under a sloping roof, the gross floor area of which does not exceed 50 percent of the floor area of the story immediately below it.

Street means a thoroughfare for vehicular traffic, generally includes everything found within the right-of-way.

Street line means the right-of-way line of a street or easement for ingress and egress.

Structure means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, billboards, and signs.

Subdivision, mobile, means a legally platted residential subdivision approved by the planning commission and where residence is intended to be in mobile home or trailer coaches.

Trailer coach or *travel trailer* means a vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet and a body length not exceeding 30 feet.

Treatment station means any individual work station where an employee provides services to a customer. In the context of a beauty parlor, a treatment station shall include but not be limited to, hair cutting chairs; shampoo sinks/chairs; manicure, makeup or facial chairs; and the like.

(Ord. No. 2009-07, pt. 15, 3-9-2009)

Sec. 3907. Definitions U—Z.

Use, accessory, a subordinate use which is customarily incidental to the principal use on the same lot.

Use, principal, means the primary and chief purpose for which a lot is used.

Variance means a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance by granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

Walkway, covered, means a structure six feet or less in width, with a permanent roof that connects a principal residence to one or more accessory structures.

Walkway, enclosed, means a structure six feet or less in width, with a permanent roof and sidewalks or screens that connects a principal residence to one or more accessory structures.

Yard means a required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture, but not including decks, may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

Decks may be permitted to occupy not more than 25 percent of a required rear yard, subject to the following:

(1) The maximum projection into the required rear yard shall be 16 feet.

(2) No part of a deck shall be located on the ground within any landscaped stabilization zone; however, a deck may be cantilevered not more than eight feet over any landscaped stabilization zone where it will not interfere with the normal growth of the vegetation used to stabilize the banks.

Yard, front, means a yard extending the full width of a lot across the front of a lot adjoining a public street or a private street approved by the board of appeals or the city planning commission in conjunction with approval of a site plan.

(1) The depth of a front yard shall be measured at right angles to a straight line joining the foremost point of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. The front and rear lines of front yards shall be parallel.

(2) In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the administrative official may waive the requirement for the normal front yard and substitute therefor a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

(3) For corner lots in a residential district, the front yard shall be the yard abutting the street which is designated as the front street in the plat and in the application for a building permit or zoning occupancy permit. If there is no such designation, the narrower lot frontage shall be considered the front in determining building siting and required setbacks. The other side abutting a street shall be considered a side yard, and shall meet the minimum setback for side yards in the district in which it is located, and is required to meet the larger of the side yard minimum requirements. On corner lots where the rear lot line of a parcel (parcel X) abuts the side lot line of a parcel (parcel Y) with frontage onto the other street, detached accessory buildings shall be placed in the rear yard of the parcel X, beyond the established front yard line for the parcel Y (as shown in fig. 4).

Yard, rear, means a yard extending across the full width of the lot, the depth of which is the required horizontal distance between the rear lot line and the nearest point of the principal building.

Yard, side, means a yard extending from the required front yard to the required rear yard. In the case of through lots, side yards shall extend from the rear lines of front yards required. Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with its inner edge parallel with the side lot line.

(Ord. No. 2004-15, 9-13-2004; Ord. No. 2014-04, 3-24-2014)

ARTICLE 40. SHORT TITLE

[Sec. 4000. Reference to ordinance.]

(a) This ordinance may be cited and referred to as the "City of Rochester Zoning Ordinance."

ARTICLE 41. AMENDMENT OF ORDINANCE [NO.] 1963-8; EFFECTIVE DATE

[Sec. 4100. Ordinance amended.]

(a) The City of Rochester Zoning Ordinance, Ordinance No. 1963-8, as amended, except the zoning map and boundaries of zoning districts, is hereby amended in its entirety. The adoption of this amending ordinance, however, shall not affect or prevent any pending or future prosecution of, or action to abate, any existing violation of Ordinance No. 1963-8, as amended, if said existing violation is in violation of the provisions of this ordinance. This ordinance shall become effective immediately upon the publication thereof.

Proposed Zoning Map

City of Rochester, Oakland County, MI

ZONING DISTRICT

- R-1 One Family Residential
- R-2 One Family Residential
- R-3 One Family Residential
- R-4 One Family Residential
- R-5 One Family Residential
- RM-1 Multiple Family Residential (Mixed Residential)
- RM-2 Multiple Family Residential
- RT Two Family Residential
- O-1 Limited Office
- O-2 Restricted Office
- CBD Central Business
- B-1 General Business
- DE-1 Downtown Edge 1
- DE-2 Downtown Edge 2
- MU Mixed Use
- MU-1 Mixed Use 1
- T Transition
- RP Research Park
- LI Light Industrial
- P-1 Vehicular Parking
- PUB Public/Quasi-Public
- POS Parks and Open Space
- RV River Valley
- Bistro Overlay
- Conditionally Rezoned - See City for Details
- Special Project Area

THIS IS TO CERTIFY THAT THIS IS THE OFFICIAL ZONING MAP REFERRED TO IN SECTION 100 OF THE ZONING ORDINANCE NUMBER 1977-4, AS AMENDED, OF THE CITY OF ROCHESTER, MICHIGAN, ADOPTED JULY 25, 1977, AS AMENDED THROUGH FEBRUARY__, 2025 (AMENDING ORDINANCE NO. 2025-xx).

Mayor

Attested by City Clerk

Date

Seal

0 600 1,200 2,400 Feet

Basemap Source: Oakland County GIS, Michigan Center for Geographic Information Data Source: McKenna

MCKENNA

September 28, 2026
DRAFT

City of Rochester

400 Sixth Street
Rochester, MI 48307
P: (248) 733-3700
F: (248) 733-3170
www.rochestermi.org

To: Honorable Planning Commission

From: Jeremy Peckens, Planning and Zoning Administrator

Date: 10/28/2026

RE: Planning Commission Meeting Calendar

Below are the proposed meeting dates for the 2027 Planning Commission schedule. They will take place at 7:00pm on the first Monday of each month, other than Tuesday 6th, Tuesday September 7th and Wednesday November 3rd.

- Monday, January 4
- Monday, February 1
- Monday, March 1
- Monday, April 5
- Monday, May 3
- Monday, June 7
- Monday, July 6
- Wednesday, August 2
- Tuesday, September 7
- Monday, October 4
- Wednesday, November 3
- Monday, December 6

Jeremy Peckens, MPA
Planning & Zoning Administrator

ROCHESTER
Where you live.

Address: 400 Sixth Street, Rochester, MI 48307
Office Phone: (248) 733-3700 Ext. 356
Cell Phone: (286) 961-1044
Email: Jpeckens@rochestermi.org
Website: www.rochestermi.org

ROCHESTER
Where you live.