

Chapter 24 - ZONING
FOOTNOTE(S):

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Editor's note— Ord. No. 1087, adopted March 8, 2010, amended and restated the zoning regulations of the city. Prior to Ord. No. 1087 the zoning regulations derived from Ord. No. 525, as amended, and were not published in this volume.

Cross reference— Buildings and building regulations, Ch. 6; commercial, business, industrial buildings condition and use code, Ch. 7¼; streets, sidewalks and other public places, Ch. 16; urban redevelopment, Ch. 19; water and sewage disposal systems, Ch. 22.

ARTICLE I. - TITLE, PURPOSE AND SCOPE

Sec. 24-1. - Title.

This chapter establishes comprehensive zoning regulations for City of Ferndale and provides for the administration, enforcement and amendment of those regulations, in accordance with the provisions of the Michigan Zoning Enabling Act (MCL 125.3101 et seq.), as amended. This chapter shall be known and cited as the City of Ferndale Zoning Ordinance, the "Zoning Ordinance" or "this Ordinance."

(Ord. No. 1087, § 1.01, 3-8-10)

Sec. 24-2. - Purpose.

In accordance with the authority and intent of the Michigan Zoning Enabling Act, as amended, the purpose of this chapter to promote the public health, safety and general welfare of the people of Ferndale. The provisions are intended to:

- (1) Implement the recommendations of the City of Ferndale Master Plan.
- (2) Regulate the intensity of development to ensure compatibility among land uses and reduce the negative impacts on adjacent properties.
- (3) Protect the character and stability of residential properties, non-residential uses and public amenities within the city and promote orderly development and/or redevelopment of these areas.
- (4) Create a diversified and balanced mixture of land uses that will support the economic vitality, tax base and livability of the City.
- (5) Protect and enhance the natural environment and promote sustainable building and site design.
- (6) Improve the appearance and design quality of development.
- (7) Preserve and improve the capacity and safety of the existing street system.
- (8) Create a safe, balanced, and coordinated multi-modal transportation system that is pedestrian-friendly and is adequate to accommodate the current and future needs of the city.
- (9) Provide for the administration and enforcement of this chapter.

(Ord. No. 1087, § 1.02, 3-8-10)

Sec. 24-3. - Scope and construction of regulations.

Buildings, structures, or parcels of land, or part thereof, shall not be erected, constructed, reconstructed or altered and a new use or change in use shall not be implemented, except as permitted by the provisions of this chapter and all applicable codes and state and federal laws.

(Ord. No. 1087, § 1.03, 3-8-10)

Sec. 24-4. - Conflict with other laws, regulations and agreements.

- (a) Where any condition imposed by any provision of this chapter upon the use of any lot, building, structure or parcel of land is either more restrictive or less restrictive than any comparable conditions imposed by any other provision of this or any other ordinance or by state or federal laws, the provision which is more restrictive or which imposes a higher standard or requirement shall govern.
- (b) Where any graphic or table of this chapter conflicts with the text of this chapter, the text shall govern.
- (c) This chapter is not intended to interfere with, modify or annul any easement, covenant or other private agreements between parties, except that easements, covenants, and other private agreement shall be governed by the provisions of this chapter.

(Ord. No. 1087, § 1.04, 3-8-10)

Sec. 24-5. - Vested rights.

It is expressly declared that nothing in this chapter shall be construed or interpreted to give rise to any permanent vested rights in the continuation of any particular use, district or zoning classification or any permissible activities, except where an applicant has commenced excavation or construction pursuant to a valid building permit and site plan approval, if required, which has resulted in a tangible change in the land. Otherwise, the continuation of any particular use, district or zoning classification or any permissible activities are declared to be subject to subsequent amendment, change or modification as may be necessary to preserve and protect public health, safety and welfare.

(Ord. No. 1087, § 1.05, 3-8-10)

Secs. 24-6—24-20. - Reserved.

ARTICLE II. - ZONING DISTRICT REGULATIONS

Sec. 24-21. - District designations.

For purposes of this chapter, the City of Ferndale is hereby divided into the following districts:

R-1	Single-Family Residential District

R-2	Single/Two-Family Residential District
R-3	Single/Multiple-Family Residential, Medium Density District
R-4	Multiple-Family Residential, High Density District
CBD	Central Business District
C-2	General Commercial District
C-3	Extended Business District
OS	Office Service District
MXD-1	Mixed Use District
MXD-2	Mixed Use District
M-1	Limited Industrial District
M-2	General Industrial District
P-1	Vehicular Parking District
PUD	Planned Unit Development District

(Ord. No. 1087, § 2.01, 3-8-10)

Sec. 24-22. - Zoning district map.

- (a) *Identified.* The boundaries of the zoning districts listed in section 24-22, District designations are defined as shown on the map entitled "City of Ferndale Zoning Map."
- (b) *Authority.* Regardless of the existence of purported copies of the zoning district map which may be published, a true and current copy of the zoning district map shall be available for public inspection in the community development department (CDD) and the city clerk's office. The CDD director's copy shall be the final authority as to the current status of any land, parcel, lot, district, use, building or structure in the city.
- (c) *Boundaries.* Where uncertainty exists with respect to the boundaries of any of the districts indicated on the zoning district map, the following rules shall apply:

(1) Unless shown otherwise, the boundaries of the districts are lot lines; the center lines of streets, alleys, roads or such lines extended; and the corporate limits of the City of Ferndale.

(2) A boundary indicated as approximately following a recorded lot line or the line bounding a parcel or the limits of the city shall be construed as following such line.

(3) A boundary indicated as following a railroad line shall be construed as being located midway in the right-of-way.

(4) Where there is any uncertainty, contradiction or conflict as to the intended location of any district boundary due to the scale, lack of detail or illegibility of the zoning map, the exact location of the district boundaries shall be determined by the board of zoning appeals.

(Ord. No. 1087, § 2.02, 3-8-10)

Sec. 24-23. - Zoning of vacated areas.

Whenever any street, alley or other public way shall be vacated, such street, alley or other public way or portion thereof shall automatically be classified in the same zoning district as the property to which it is attached.

CITY OF FERNDALe TABLE OF USES BY DISTRICT

P = Permitted Use										S = Special Land Use										Use	R-1	R-2	R-3	R-4	CBD	C-2	C-3	OS	MXD-1	MXD-2	M-1	M-2	P-1
Residential:																																	
Home businesses	P	P	P	P	—	—	—	—	—	P	P	—	—	—																			
Manufactured homes	P	P	—	—	—	—	—	—	—	—	—	—	—	—																			
Multiple-family dwellings (including a maintenance building, community buildings and private swimming pools intended to	—	—	P	P	—	—	—	—	—	P	P	—	—	—																			

serve the occupants of the complex)														
Multiple-family dwellings (at a higher density than R-3, developments of at least 40 units may have convenience/service establishments located on the ground floor, if designed and intended primarily for use by residents)	—	—	—	P	—	—	—	—	P	P	—	—	—	—
Residential apartment (1 above garage and accessory to single-family dwelling)	S	S	S	S	—	—	—	—	—	—	—	—	—	—
Single-family attached dwellings, 3 or more	—	S	S	S	—	—	—	—	P	P	—	—	—	—
Single-family detached dwellings	P	P	—	—	—	—	—	—	—	—	—	—	—	—
Single-family dwellings in existence at the time of adoption of this ordinance	—	—	P	—	—	—	—	—	P	P	—	—	—	—
Two-family dwellings	—	P	P	—	—	—	—	—	—	—	—	—	—	—
Two-family dwellings in existence at the time of adoption of this ordinance	P	—	—	—	—	—	—	—	—	—	—	—	—	—
Upper level residential units	—	—	—	—	P	P	P	P	P	P	—	—	—	—
Health Care Facilities:														
Assisted living facilities	—	—	S	S	—	—	—	—	S	S	—	—	—	—
Hospitals and other medical facilities permitting overnight patients	—	—	—	—	—	—	—	S	—	—	—	—	—	—
Medical, dental and physical therapy offices, clinics and medical and dental laboratories and	—	—	—	—	P	P	P	P	P	P	P	—	—	—

similar uses (not permitting overnight patients)														
Medical marihuana facilities	—	—	—	—	—	—	—	S	—	—	S	S		
Medical marihuana grow operation (Refer to restrictions on grow operations in OS District)	—	—	—	—	—	—	—	S	—	—	S	S		
State licensed day care centers	—	—	S	S	P	—	—	S	P	P	—	—	—	
State licensed residential facilities	S	S	P	P	—	—	—	—	—	—	—	—	—	
State licensed residential group day care facilities	S	S	S	S	—	—	—	—	—	—	—	—	—	
Entertainment and Recreational:														
Adult businesses	—	—	—	—	—	—	S	—	—	—	—	—	—	
Amusement arcades	—	—	—	—	P	S	S	—	—	—	—	—	—	
Banquet halls	—	—	—	—	—	S	S	—	—	S	S	S	—	
Health, fitness and exercise clubs	—	—	—	—	P	P	P	P	P	P	—	—	—	
Gun ranges and clubs	—	—	—	—	—	—	—	—	—	—	S	S	—	
Participatory recreation and amusement services (bowling alleys, swim clubs, court sports, roller and ice skating rinks, billiard halls, and miniature golf, excluding go-cart tracks)	—	—	—	—	—	S	S	—	—	—	P	—	—	
Private clubs	—	—	—	—	—	P	P	P	P	P	—	—	—	
Public parks and playgrounds	P	P	P	P	P	—	—	—	—	—	—	—	—	
Theaters	—	—	—	—	P	P	P	—	—	—	—	—	—	
Service, Retail and Office:														
Accessory retail associated with principal use	—	—	—	—	—	—	—	—	—	—	P	P	—	
Art, music, dance, craft, ceramic, glass,	—	—	—	—	P	P	P	P	P	P	—	—	—	

cooking, and similar schools and studios														
Banks, credit unions, savings and loans and similar uses	—	—	—	—	P	P	P	P	P	P	—	—	—	
Bed and breakfast facilities	S	S	S	S	—	—	—	—	—	—	—	—	—	
Business service establishments (including printing and photocopying services, mail and packaging services, data processing and office support services and similar uses)	—	—	—	—	P	P	P	P	P	P	P	—	—	
Cemeteries	S	S	S	S	—	—	—	—	—	—	—	—	—	
Computer service centers and similar uses (including maintenance of electronic equipment)	—	—	—	—	P	P	P	P	P	P	P	—	—	
Drive-in and drive through facilities	—	—	—	—	—	S	—	—	—	—	—	—	—	
Funeral homes	—	—	—	—	—	S	S	—	—	—	—	—	—	
Greenhouses and retail landscaping establishments	—	—	—	—	—	—	—	—	—	—	S	P	—	
Lodging facilities	—	—	—	—	S	S	S	—	—	—	—	—	—	
Massage establishments (that do not fit the definition of an adult business)	—	—	—	—	P	P	P	—	—	—	—	—	—	
Office buildings	—	—	—	—	P	P	P	P	P	P	—	—	—	
Open air businesses	—	—	—	—	S	S	S	—	—	—	—	—	—	
Pawnbrokers	—	—	—	—	—	—	P	—	—	—	—	—	—	
Radio and television studios	—	—	—	—	P	P	P	—	—	—	—	—	—	
Research and development centers	—	—	—	—	—	P	P	P	—	—	P	P	—	
Retail establishments, large	—	—	—	—	P	P	P	—	—	—	—	—	—	

Retail establishments, small	—	—	—	—	P	P	P	—	P	P	—	—	—
Production facilities that have a minimum of 20% floor area dedicated to retail sales (production of consumer goods such as food, beverages, art, clothing, textiles, etc.)	—	—	—	—	S	P	P	P	S	P	P	P	—
Self-storage facilities	—	—	—	—	—	—	—	—	—	—	S	S	—
Service and repair establishments (photographic studios; barber and beauty shops; tanning salons; body decorating salons; watch, clothing and shoe repair shops; dressmaking, interior decorating, lock smith, small household appliances, musical instruments, bicycles, furniture, eyeglasses, office or business machines and similar establishments)	—	—	—	—	P	P	P	P	P	P	—	—	—
Shops of building trades, caterers, blue printers and similar services	—	—	—	—	—	P	P	P	P	P	P	P	—
Sidewalk cafe ½1/2s	—	—	—	—	P	P	P	P	P	P	—	—	—
Standard restaurants	—	—	—	—	P	P	P	P	P	P	—	—	—
Standard restaurants with outdoor seating	—	—	—	—	P	S	S	S	S	S	—	—	—
Vehicle dealerships	—	—	—	—	—	S	S	—	—	—	—	—	—
Vehicle filling and service stations	—	—	—	—	—	S	S	—	—	S	—	—	—
Vehicle repair, major	—	—	—	—	—	—	—	—	—	—	P	P	—
Vehicle repair,	—	—	—	—	—	S	S	—	—	S	P	P	—

minor														
Vehicle washes	—	—	—	—	—	S	S	—	—	S	—	—	—	
Veterinary offices and hospitals, groomers (including accessory boarding, but outdoor exercise runs or pens are prohibited)	—	—	—	—	—	P	P	S	P	P	—	—	—	
Video rental and sales establishments (no more than 20% of floor space is occupied by adult-related items)	—	—	—	—	P	P	P	—	P	P	—	—	—	
Wholesale sales	—	—	—	—	—	S	S	—	—	—	—	—	—	
Wireless communication facilities	—	—	—	—	—	—	—	—	—	—	P	P	—	
Public, Institutional and Utilities:														
Business and technical schools	—	—	—	—	P	P	P	P	P	P	P	P	P	—
Educational institutions - public or private	S	S	S	S	—	—	—	—	—	—	—	—	—	—
Essential services	S	S	S	S	—	S	S	S	—	—	S	S	—	
Essential services, associated buildings	—	—	—	—	—	—	—	—	S	S	S	S	—	
Essential services, substations	—	—	—	—	—	—	—	—	—	—	—	S	—	
Institutions for religious worship	S	S	S	S	—	—	—	—	S	S	—	—	—	
Libraries	S	S	S	S	P	—	—	P	P	P	—	—	—	
Museums	—	—	—	—	P	—	—	P	P	P	—	—	—	
Nursery schools	S	S	S	S	—	—	—	—	—	—	—	—	—	
Parking lots (public and private)	—	—	—	—	—	—	—	—	—	—	—	—	P	
Parking structures	—	—	—	—	S	S	S	S	—	—	S	S	S	
Public buildings (governmental offices, police and fire stations and community centers, but not including service or storage yards)	S	S	S	S	P	P	P	P	P	P	—	—	—	

Trade and vocational schools	—	—	—	—	—	—	—	S	—	—	P	P	—
Industrial:													
Commercial laundry facilities, but not including dry-cleaning plants	—	—	—	—	—	—	—	—	—	—	P	P	—
Contractors offices and storage yards	—	—	—	—	—	—	—	—	—	—	S	S	—
Dry cleaning plants	—	—	—	—	—	—	—	—	—	—	—	S	—
Freight yards and freight buildings	—	—	—	—	—	—	—	—	—	—	—	S	—
Manufacturing, machining, processing, packaging and assembling including, but not limited to: appliances, millwork, cabinetry and furniture; stone, clay, glass and leather products; beverages and food products; scientific, technical and mechanical instruments; heating, cooling and ventilating equipment, HVAC sheet metal; signs: tool and die shops; and miscellaneous items (musical instruments, cosmetics, optical devices, electronics), and similar uses	—	—	—	—	—	—	—	—	—	—	P	P	—
Manufacturing, processing, packaging and assembling including, but not limited to, steel; plastic products (laminated, pipe, plumbing products, miscellaneous molded or extruded products); sawmills, planing mills, paper and wood products, prefabricated buildings, wood	—	—	—	—	—	—	—	—	—	—	—	P	—

structural members and other lumber operations, and similar uses														
Material distribution centers; wholesale establishments; warehouses (whether or not refrigerated) and general storage facilities	—	—	—	—	—	—	—	—	—	—	P	P	—	
Recycling facilities	—	—	—	—	—	—	—	—	—	—	—	S	—	
Reuse facilities	—	—	—	—	—	—	—	—	—	—	S	S	—	
Manufacturing, processing or assembling of biochemical, biological, medicinal, or pharmaceutical products											S	S		
Solvent recovery centers and facilities handling, manufacturing, blending, refining, using or storing chemicals deemed hazardous by state or federal regulations	—	—	—	—	—	—	—	—	—	—	—	S	—	
Vehicle storage facility, indoor	—	—	—	—	—	—	—	—	—	—	S	P	—	
Vehicle storage facility, outdoor	—	—	—	—	—	—	—	—	—	—	—	S	—	
Wind energy conversion systems (WECS)	—	—	—	—	—	—	—	—	—	—	S	S	—	

(Ord. No. 1087, § 2.03, 3-8-10)

Secs. 26-24—26-40. - Reserved.

ARTICLE III. - RESIDENTIAL DISTRICTS

Sec. 24-41. - Intent.

- (a) *R-1 single-family residential district.* The R-1 district is composed of those areas of the city where the principal intended use is single-family dwellings and related uses in keeping with the Master Plan. Permitted and Special Land Uses in this district are intended to promote residential neighborhoods free of unrelated traffic and other nuisances.
- (b) *R-2 single/two-family residential district.* The R-2 district is composed of those areas of the city where the principal intended use is single and two-family dwellings and related uses in keeping with the master plan. Permitted and special land uses in this district are intended to maintain a lower density than is allowed in the R-3. District areas zoned R-2 are intended to be compatible with areas zoned R-1.
- (c)

R-3 single/multiple-family residential district. The R-3 district is composed of those areas of the city where the principal intended use are single and multiple-family dwellings at a lower density than permitted in R-4 that are compatible with single-family residential districts in relation to setbacks and related uses in keeping with the master plan. These areas should be located near major streets for accessibility and nominal traffic impact on adjacent single-family areas. The various types and sizes of residential units allowed in this district are intended to provide zones of transition between residential and other districts and to serve the needs of different age and family groups without creating an unreasonable burden to existing community facilities, utilities or services.

- (d) *R-4 multiple-family residential district.* The R-4 district is composed of those areas of the city where the principal intended use is multiple-family dwellings at a higher density than R-3 and related uses in keeping with the master plan. These areas should be located near major streets for accessibility and nominal traffic impact on adjacent single-family areas. The various types and sizes of residential units allowed in this district are intended to provide zones of transition between residential and other districts and to serve the needs of different age and family groups without creating an unreasonable burden to existing community facilities, utilities or services.

(Ord. No. 1087, § 3.01, 3-8-10)

Sec. 24-42. - Uses.

Residential Districts Permitted (P) and Special Land Uses (S)					
Use	R-1	R-2	R-3	R-4	Additional Requirements
Residential:					
Home businesses	P	P	P	P	Section 24-147
Manufactured homes	P	P	—	—	Section 24-150
Multiple-family dwellings (including a maintenance building, community buildings and private swimming pools intended to serve the occupants of the complex)	—	—	P	P	Section 24-151
Multiple-family dwellings (at a higher density than R-3, developments of at least 40 units may have convenience/service establishments located on the ground floor, if designed and intended primarily for use by residents)	—	—	—	P	Section 24-151
Residential apartment (1 above garage and accessory to single-family dwelling)	S	S	S	S	
Single-family attached dwellings, 3 or more	—	S	S	S	Section 24-158
Single-family detached dwellings	P	P	—	—	
Single-family dwellings in existence at the time of adoption of this ordinance	—	—	P	—	
Two-family dwellings	—	P	P	—	
Two-family dwellings in existence at the time of adoption of this ordinance	P	—	—	—	
Health Care Facilities:					
Assisted living facilities	—	—	S	S	Section 24-143
State licensed day care centers	—	—	S	S	Section 24-145
State licensed residential facilities	S	S	P	P	Section 24-142
State licensed residential group day care facilities	S	S	S	S	Section 24-142
Entertainment and Recreational					
Public parks and playgrounds	P	P	P	P	
Service, Retail and Office:					
Bed and breakfast facilities	S	S	S	S	
Cemeteries	S	S	S	S	
Public, Institutional & Utilities					

Educational institutions - public or private	S	S	S	S	
Essential services	S	S	S	S	
Institutions for religious worship	S	S	S	S	Section 24-148
Libraries	S	S	S	S	
Nursery schools	S	S	S	S	
Public buildings (governmental offices, police and fire stations and community centers, but not including service or storage yards)	S	S	S	S	

(Ord. No. 1087, § 3.02, 3-8-10)

Sec. 24-43. - Schedule of regulations.

Residential Districts Schedule of Regulations				
	R-1	R-2	R-3 ^c	R-4
Maximum Height				
Building height (feet)	25	35	<u>45</u>	60
Lot Size (minimum unless otherwise noted)				
Area (square feet)	4,000	6,000	4,000	40,000
Lot width (feet)	40	50	Max 40	70
Maximum Lot Coverage				
Buildings	35%	35%	70%	50%
Impervious surfaces	—	—	—	—
Maximum Density				
Units per acre	9	15	35	80
Setbacks (minimum unless otherwise noted)				
Front (feet)	25 ^a	25 ^a	Max 10	25
Side (least) (feet) ^d	5	5	5	20
Side (total) (feet) ^d	10	10	10	40
Rear (feet)	35;sup\sup;	35;sup\sup;	20	20

Notes:

- a. Where 50 percent or more of the frontage on the same block has been previously built upon, the front setback shall be plus or minus three feet from a line established by using the average depth of the front yards of the five adjacent lots in either direction within the same zoning district eliminating the greatest and least distances measured from the front edge of the house, porch or deck.
- b. The required rear setback for any lot of record less than 100 feet in depth may be reduced by the number of feet in difference between the depth of the lot and 100 feet.
- c. Required minimum lot area, lot width and other regulations for two-family dwellings shall be the same in the R-3 Districts as they are in the R-2 District.
- d. On corner lots, there shall be a side setback for all buildings, structures and accessory buildings whenever there are any lots fronting on either side of the side street. The setback shall be equivalent to the required front setback of the side street or the average setback as determined in footnote a. above. In cases where residential lots are back-to-back, the side setback for principal buildings abutting a side street shall be a minimum of six (6) feet.

(Ord. No. 1087, § 3.03, 3-8-10)

Secs. 24-44—24-60. - Reserved.

ARTICLE IV. - COMMERCIAL AND OFFICE DISTRICTS

Sec. 24-61. - Intent.

- (a) *CBD central business district.* The CBD zoning district is designed to provide for a variety of office, business, service, entertainment and retail uses which occupy prime retail frontage and serve the needs of the city and surrounding communities. The regulations of the CBD district are designed to promote pedestrian traffic and stable development by encouraging a continuous retail frontage.
- (b) *C-2 general commercial district.* The C-2 district is designed primarily to accommodate office, business service and retail uses that serve the city and portions of the surrounding communities. It is the purpose of these regulations to promote such business development in a manner which is compatible with uses in the surrounding area.
- (c) *C-3 extended business district.* The C-3 district is designed primarily to accommodate those businesses and service establishments that may negatively impact the surrounding areas. It is the purpose of these regulations to accommodate such business development in a manner which is compatible with uses in the surrounding area.
- (d) *OS office service district.* The OS district is composed of those areas in the city where the principal intended uses are office and technical uses. The district shall be characterized by uses which generally operate during normal business hours; produce a low volume of traffic; may require some service areas along with storage facilities; and are located in buildings which are architecturally compatible with the surrounding area. The office service district is intended to provide a zone of transition between commercial and residential areas and between thoroughfares and residential areas.

(Ord. No. 1087, § 4.01, 3-8-10)

Sec. 24-62. - Uses.

Commercial and Office Districts Permitted (P) and Special Land Uses (S)					
Use	CBD	C-2	C-3	OS	Additional Requirements
Residential:					
Upper level residential units	P	P	P	P	Section 24-159
Health Care Facilities:					
Hospitals and other medical facilities permitting overnight patients	—	—	—	S	
Medical, dental and physical therapy offices, clinics, medical and dental laboratories and similar uses (overnight patients not permitted)	P	P	P	P	
Medical marihuana facility				S	Section 24-165
Medical marihuana grow operation ¹				S	Section 24-165
State licensed day care centers	P	—	—	S	Section 24-142
Entertainment and Recreational:					
Adult businesses	—	—	S	—	Section 24-141
Amusement arcades	P	S	S	—	
Banquet halls	—	S	S	—	
Health, fitness and exercise clubs	P	P	P	P	
Participatory recreation and amusement services (bowling alleys, swim clubs, court sports, roller and ice skating rinks, billiard halls and miniature golf, excluding go-cart tracks)	—	S	S	—	
Private clubs	—	P	P	P	
Public parks and playgrounds	P	—	—	—	
Theaters	P	P	P	—	
Service, Retail and Office:					
Art, music, dance, craft, ceramic, glass, cooking and similar schools and studios	P	P	P	P	
Banks, credit unions, savings and loans and similar uses	P	P	P	P	

Business service establishments (including printing and photocopying services, mail and packaging services, data processing and office support services and similar uses)	P	P	P	P	
Computer service centers and similar uses (including maintenance of electronic equipment)	P	P	P	P	
Drive-in and drive through facilities	—	S	—	—	Section 24-146
Funeral homes	—	S	S	—	
Lodging facilities	S	S	S	—	Section 24-149
Massage establishments (that do not fit the definition of an adult business)	P	P	P	—	
Novelty store	P	P	P		Section 24-166
Office buildings	P	P	P	P	
Open air businesses	S	S	S	—	Section 24-152
Pawnbrokers	—	—	P	—	
Production facilities that have a minimum of 20% floor area dedicated to retail sales (production of consumer goods such as food, beverages, art, clothing, textiles, etc.)	S	P	P	P	
Radio and television studios	P	P	P	—	
Research and development centers	—	P	P	P	
Retail establishments, large	P	P	P	—	
Retail establishments, small	P	P	P	—	
Service and repair establishments (photographic studios; barber and beauty shops; tanning studios; body decorating salons; watch, clothing and shoe repair shops; dressmaking, interior decorating, lock smith, small household appliances, musical instruments, bicycles, furniture, eyeglasses, office or business machines and similar establishments)	P	P	P	P	
Shops of building trades, caterers, blue printers and similar services	—	P	P	P	
Sidewalk cafés	P	P	P	P	
Standard restaurants	P	P	P	P	
Standard restaurants with outdoor seating	P	S	S	S	Section 24-155
Vehicle dealerships	—	S	S	—	Section 24-160
Vehicle filling and service stations	—	S	S	—	Section 24-161
Vehicle repair, minor	—	S	S	—	Section 24-161
Vehicle washes	—	S	S	—	Section 24-161
Veterinary offices and hospitals, groomers (including accessory boarding, but outdoor exercise runs or pens are prohibited)	—	P	P	S	
Video rental and sales establishments (no more than 20% of floor space is occupied by adult-related items)	P	P	P	—	
Wholesale sales	—	S	S	—	
Public, Institutional and Utilities:					
Business and technical schools	P	P	P	P	

Essential services	—	S	S	S	
Libraries	P	—	—	P	
Museums	P	—	—	P	
Parking structures	S	S	S	S	Section 24-153
Public buildings (governmental offices, police and fire stations and community centers, but not including service or storage yards)	P	P	P	P	
Trade and vocational schools	—	—	—	S	
Prohibited Uses:					
CBD-All goods produced on the premises shall be sold at retail on the premises OS—Outdoor storage of goods or materials including, but not limited to, equipment, machinery, trash or recyclable materials, debris, construction materials, tractors or trailers					

Notes:

¹A medical marihuana grow operation may be permitted as a special land use only as an accessory use to a medical marihuana facility in the OS office service district and the medical marihuana grow operation shall be limited to not more than 20 percent of the interior floor space of the structure or building.

(Ord. No. 1087, § 4.02, 3-8-10; Ord. No. 1126, Pt. 1, 7-9-12)

Sec. 24-63. - Schedule of regulations.

Commercial and Office Districts Schedule of Regulations				
	CBD	C-2	C-3	OS
Maximum Height				
Building height (feet) ^{a,b}	—	—	50	40
Lot Size (minimum unless otherwise noted)				
Area (square feet)	—	—	—	—
Lot width (feet)	—	—	—	—
Maximum Lot Coverage				
Buildings	—	—	—	—
Impervious surfaces	—	—	—	—
Maximum Density				
Units per acre	—	—	—	—
Setbacks (minimum unless otherwise noted)				
Front (feet) ^f	g	e	e	e
Side (least) (feet)	—	c	c	c
Side (total) (feet)	—	c	c	c
Rear (feet)	—	d	d	d

Notes:

a. Where building height exceeds three stories, façades adjacent to R-1 and R-2 Districts shall step back fifteen feet above the third story.

b. Building heights. The following height restrictions apply, provided that all applicable building and fire code requirements are met:

1. Withington between Woodard and Livernois: 45 feet.
 2. Vester between Woodward and Bermuda: 45 feet.
 3. West Troy between Woodward and Allen: 70 feet.
 4. Nine Mile Road between Livernois and Planavon: 50 feet.
 5. Nine Mile Road between Planavon and Woodward: 70 feet.
 6. Nine Mile Road between Woodward and Paxton: 55 feet.
 7. Woodward between Withington, Vester and Troy: 70 feet.
 8. C-2 fronting Woodward: 70 feet.
 9. C-2 fronting 8 Mile and 9 Mile: 50 feet.
 10. Where building height exceeds 45 feet adjacent to R-1 and R-2 Districts, façades adjacent to R-1 or R-2 Districts shall step back a minimum of 15 feet at 45 feet.
- c. Side yard setbacks.
1. *Adjacent to residential property.* A side setback of six feet shall be provided on each side that abuts residential property.
 2. *On interior lot lines.* Side setbacks are not required along interior side lot lines, provided such setbacks do not abut residentially zoned areas.
 3. *On the street side of corner lots.* Side setbacks are not required on the street side of corner lots providing the visibility at the intersection is maintained as set forth in [section 24-197](#), Visibility at intersections.
- d. Rear yard setbacks.
1. *On interior lot lines.* Rear setbacks are not required along interior rear lot lines provided such setbacks do not abut residentially zoned properties. Rear setbacks of five (5) feet shall be provided where the rear lot line abuts residential property.
 2. *Abutting a street.* On any through or double frontage lot, any building or structure extending into the rear yard shall conform to the front setback requirement on that street.
- e. Where 50 percent or more of the frontage on the same side of the street within 600 feet has previously been built, then principal buildings hereafter constructed shall have a minimum front setback established by using the average depth of the yards on the lots so constructed, measured from the forwardmost edge of construction. No improvements may encroach upon the front setback.
- f. Except as otherwise allowed by this chapter, front yard space shall not be used for parking.
- g. Central business district regulations.
1. The front façade of the principal building shall be located within six feet of the front property line.
 2. Each building abutting a public street for which a street address number is assigned shall be accessible to and from that street by an entrance open and unlocked to the public during business hours. This condition shall be enforced by periodic inspections, not less than annually.

(Ord. No. 1087, § 4.03, 3-8-10)

Secs. 24-64—24-80. - Reserved.

ARTICLE V. - MIXED USE DISTRICTS

Sec. 24-81. - Intent.

- (a) *MXD-1 mixed use district.* The MXD-1 district is intended to encourage a complementary mixture of small-scale uses including residential, local business and office uses that are compatible in a neighborhood setting. It is the purpose of these regulations to provide a mechanism for mixed use developments that are compatible with the surrounding environment and characteristics of the site and to ensure that the infrastructure will be adequate to accommodate the needs of the development.
- (b) *MXD-2 mixed use district.* The MXD-2 district is intended to encourage a complementary mixture of uses including residential, local business and office uses. It is the purpose of these regulations to provide a mechanism for mixed use developments that are compatible with the surrounding environment and characteristics of the site and to ensure that the infrastructure will be adequate to accommodate the needs of the development.

(Ord. No. 1087, § 5.01, 3-8-10)

Sec. 24-82. - Uses.

Mixed Use Districts Permitted (P) and Special Land Uses (S)			
Use	MXD-1	MXD-2	Additional Regulations
Residential:			
Home businesses	P	P	Section 24-147
Multiple-family dwellings (including a maintenance building, community buildings and private swimming pools intended to serve the occupants of the complex)	P	P	Section 24-151
Multiple-family dwellings (at a higher density than R-3, developments of at least 40 units may have convenience/service establishments located on the ground floor, if designed and intended primarily for use by residents)	P	P	Section 24-151
Single-family attached dwellings, 3 or more	P	P	Section 24-158
Single-family dwellings in existence at the time of adoption of this ordinance	P	P	
Upper level residential uses	P	P	Section 24-159

Health Care Facilities:			
Assisted living facilities	S	S	Section 24-143
Medical, dental and physical therapy offices, clinics, medical and dental laboratories and similar uses (overnight patients not permitted)	P	P	
State licensed day care centers	P	P	Section 24-145
Entertainment and Recreational:			
Banquet halls	—	S	
Health, fitness and exercise clubs	P	P	
Private clubs	P	P	
Service, Retail and Office:			
Art, music, dance, craft, ceramic, glass, cooking, and similar schools and studios	P	P	
Banks, credit unions, savings and loans and similar uses	P	P	
Business service establishments (including printing and photocopying services, mail and packaging services, data processing and office support services and similar uses)	P	P	
Computer service centers and similar uses (including maintenance of electronic equipment)	P	P	
Novelty store	P	P	Section 24-166
Office buildings	P	P	
Production facilities that have a minimum of 20% floor area dedicated to retail sales (production of consumer goods such as food, beverages, art, clothing, textiles, etc.)	S	P	
Retail establishments, small	P	P	
Service and repair establishments (photographic studios; barber and beauty shops; tanning studios, body decorating salons; watch, clothing and shoe repair shops; dressmaking, interior decorating, lock smith, small household appliances, musical instruments, bicycles, furniture, eyeglasses, office or business machines and similar establishments)	P	P	
Shops of building trades, caterers, blue printers and similar services	P	P	
Sidewalk cafés	P	P	
Standard restaurants	P	P	
Standard restaurants with outdoor seating	S	S	Section 24-155
Vehicle filling and service stations	—	S	Section 24-161
Vehicle repair, minor	—	S	Section 24-161
Vehicle washes	—	S	Section 24-161
Veterinary offices and hospitals, groomers (including accessory boarding, but outdoor exercise runs or pens are prohibited)	P	P	
Video rental and sales establishments (no more than 20% of floor space is occupied by adult-related items)	P	P	
Public, Institutional and Utilities:			
Business and technical schools	P	P	
Essential services, associated buildings	S	S	

Institutions for religious worship	S	S	<u>Section 24-148</u>
Libraries	P	P	
Museums	P	P	
Public buildings (governmental offices, police and fire stations and community centers, but not including service or storage yards)	P	P	
Prohibited Uses:			
Outdoor storage of goods or materials including, but not limited to, equipment, machinery, trash or recyclable materials, debris, construction materials, tractors or trailers			

(Ord. No. 1087, § 5.02, 3-8-10; Ord. No. 1126, Pt. I, 7-9-12)

Sec. 24-83. - Schedule of regulations.

Mixed Use Districts Schedule of Regulations		
	MXD-1	MXD-2
Maximum Height		
Building height (feet)	35	35
Lot Size (minimum unless otherwise noted)		
Area (square feet)	—	—
Lot width (feet)	—	—
Maximum Lot Coverage		
Buildings	—	—
Impervious surfaces	—	—
Maximum Density		
Units per acre	—	—
Setbacks (minimum unless otherwise noted)		
Front (feet) ^{a,b}	—	—
Side (least) (feet) ^c	—	—
Side (total) (feet) ^c	—	—
Rear (feet)	—	—

- Notes:
- a. Where 50 percent or more of the frontage on the same side of the street within 600 feet has previously been built, then principal buildings hereafter constructed shall have a minimum front setback established by using the average depth of the yards on the lots so constructed, measured from the forwardmost edge of construction. No improvements may encroach upon the front setback.
 - b. Except as otherwise allowed by this chapter, uses shall not be conducted in front of the building façade abutting a public street. Such front yard space shall be used only for landscaping purposes and shall not be used at any time for the sale, storage, or display of merchandise or for parking.
 - c. On corner lots, there shall be a side setback for all buildings, structures and accessory buildings whenever there are any lots fronting on either side of the side street. The setback shall be equivalent to the required front setback of the side street or the average setback as determined in footnote a. above. In cases where residential lots are back-to-back, the side setback for principal buildings abutting a side street shall be a minimum of six feet.
 - d. Development in MXD districts shall front on a Major or Minor Arterial street (excluding Pinecrest), or on Marshall, Woodward Heights, or Vester.

(Ord. No. 1087, § 5.03, 3-8-10)

Secs. 24-84—24-100. - Reserved.

ARTICLE VI. - INDUSTRIAL DISTRICTS

Sec. 24-101. - Intent.

- (a) *M-1 light industrial district.* The M-1 district is designed to accommodate industrial, warehouse and similar uses that generate minimal noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, potentially harmful or obnoxious matter, radiation or other potential nuisances.
- (b) *M-2 general industrial district.* The M-2 district is designed to accommodate manufacturing, assembly, industrial, wholesale, industrial warehouses and similar uses. It is the purpose of these regulations to permit the development of certain functions, but to protect the surrounding areas from incompatible industrial activities and to restrict the intrusion of non-related uses such as residential, retail business and commercial establishments.

(Ord. No. 1087, § 6.01, 3-8-10)

Sec. 24-102. - Uses.

Industrial Districts Permitted (P) and Special Land Uses (S)			
	M-1	M-2	Additional Requirements
Health Care Facilities:			
Medical, dental and physical therapy offices, clinics, medical and dental laboratories and similar uses (overnight patients not permitted)	P	—	
Medical marihuana facility	S	S	Section 24-165
Medical marihuana grow operation	S	S	Section 24-165
Entertainment and Recreational:			
Banquet halls	S	S	
Gun ranges and clubs	S	S	
Participatory recreation and amusement services (bowling alleys, swim clubs, court sports, roller and ice skating rinks, billiard halls and miniature golf, excluding go-cart tracks)	P	—	
Service, Retail and Office:			
Accessory retail associated with principal use	P	P	
Business service establishments (including printing and photocopying services, mail and packaging services, data processing and office support services and similar uses)	P	—	
Computer service centers and similar uses (including maintenance of electronic equipment)	P	—	
Greenhouses and retail landscaping establishments (with outside storage and sales)	S	P	
Pet boarding facility			Section 24-167
Production facilities that have a minimum of 20% floor area dedicated to retail sales (production of consumer goods such as food, beverages, art, clothing,	P	P	
Research and development centers	P	P	
Self-storage facilities	S	S	Section 24-157
Shops of interior decorators, building trades, caterers, blue printers and similar services	P	P	
Vehicle repair, major	P	P	Section 24-161
Vehicle repair, minor	P	P	Section 24-161
Wireless communication facilities	P	P	
Public, Institutional and Utilities:			
Business and technical schools	P	P	

Essential services, associated buildings	S	S	
Essential services, substations	—	S	
Parking structures	S	S	Section 24-153
Trade and vocational schools	P	P	
Industrial:			
Commercial laundry facilities, but not including dry-cleaning plants	P	P	
Contractor's offices and storage yards	S	S	Section 24-144
Dry cleaning plants	—	S	
Freight yards and freight buildings	—	S	
Manufacturing, machining, processing, packaging and assembling including, but not limited to: appliances; millwork, cabinetry and furniture; stone, clay, glass and leather products; beverages and food products; scientific, technical and mechanical instruments; heating, cooling and ventilating equipment, HVAC sheet metal; signs; tool and die shops; and miscellaneous items (musical instruments, cosmetics, optical devices, electronics) and similar uses	P	P	
Manufacturing, processing, packaging and assembling including, but not limited to: steel; plastic products (laminates, pipe, plumbing products, miscellaneous molded or extruded products); sawmills, planing mills, paper and wood products, prefabricated buildings, wood structural members and other lumber operations and similar uses	—	P	
Material distribution centers, wholesale establishments, warehouses (whether or not refrigerated) and general storage facilities	P	P	
Recycling facilities	—	S	Section 24-154
Reuse facilities	S	S	Section 24-156
Manufacturing, processing or assembling of biochemical, biological, medicinal, or pharmaceutical products	S	S	
Solvent recovery centers and facilities handling, manufacturing, blending, refining, using or storing chemicals deemed hazardous by state or federal regulations	—	S	
Vehicle storage facility, indoor	S	P	Section 24-162
Vehicle storage facility, outdoor	—	S	Section 24-162
Wind energy conversion systems (WECS)	S	S	Section 24-163
Prohibited Uses:			
Incinerators; refineries; junkyards and recycling facilities; compost; fertilizer manufacturing; storage and processing of construction debris, explosives or solid, liquid, hazardous or landscape waste			

(Ord. No. 1087, § 6.02, 3-8-10; Ord. No. 1098, Pt. I, 8-23-10; Ord. No. 1129, Pt. I, 7-9-12)

Sec. 24-103. - Schedule of regulations.

Industrial Districts Schedule of Regulations		
	M-1	M-2
Maximum Height		
Building height (feet)	50	50

Lot Size (minimum unless otherwise noted)		
Area (square feet)	—	—
Lot width (feet)	—	—
Maximum Lot Coverage		
Buildings	—	—
Impervious surfaces	—	—
Maximum Density		
Units per acre	—	—
Setbacks (minimum unless otherwise noted)		
Front (feet) ^a	15	15
Side (least) (feet) ^{b,c}	10	10
Side (total) (feet) ^{b,c}	10	10
Rear (feet) ^{b,c}	10	10

- Notes;
- a. Where 50 percent or more of the frontage on the same side of the street within 600 feet has previously been built, then principal buildings hereafter constructed shall have a minimum front setback established by using the average depth of the yards on the lots so constructed, measured from the forwardmost edge of construction. No improvements may encroach upon the front setback.
 - b. Setbacks are not required where the side or rear property line is adjacent to a railroad right-of-way.
 - c. Where a side or rear yard abuts a public street or alley that is not adjacent to residentially zoned property, the required minimum setback shall be no less than five feet. However, if the façade that abuts the alley or street consist of an unpierced wall of fireproof construction with a parapet extending 18 inches or more above the adjoining roof construction, the building may be extended or constructed to the lot line.

(Ord. No. 1087, § 6.03, 3-8-10)

Secs. 24-104—24-120. - Reserved.

ARTICLE VII. - PARKING DISTRICTS

Sec. 24-121. - Intent.

The P-1 district is intended primarily to accommodate areas to be used solely for off-street vehicular parking, while affording maximum protection to adjacent residential areas by providing landscaped buffer strips, greenbelts or screening and acting as a transitional area between business, commercial and industrial areas and adjacent residential districts.

(Ord. No. 1087, § 7.01, 3-8-10)

Sec. 24-122. - Uses.

Parking Districts Permitted and Special Land Uses		
Use	P-1	Additional Requirements
Public, Institutional and Utilities:		
Parking lots (public and private)	P	
Parking structures	S	<u>Section 24-153</u>

(Ord. No. 1087, § 7.02, 3-8-10)

Sec. 24-123. - Schedule of regulations.

Parking Districts Schedule of Regulations	
	P-1

Maximum Height	
Building height (feet)	<u>45</u>
Lot Size (minimum unless otherwise noted)	
Area (square feet)	—
Lot width (feet)	—
Maximum Lot Coverage	
Buildings	—
Impervious surfaces	—
Maximum Density	
Units per acre	—
Setbacks (minimum unless otherwise noted)	
Front (feet)	—
Side (least) (feet)	—
Side (total) (feet)	—
Rear (feet)	—

(Ord. No. 1087, § 7.03, 3-8-10)

Secs. 24-124—24-140. - Reserved.

ARTICLE VIII. - USE REGULATIONS

Sec. 24-141. - Adult businesses.

- (a) *Purpose.* In the preparation and enactment of this chapter, it is recognized that there are some uses which, because of their very nature, have operational characteristics which may have a deleterious effect upon residential, office and commercial areas. Regulating the locations of these uses is necessary to ensure that the adverse effects of such businesses will not cause or contribute to the blighting or downgrading of the city's residential neighborhoods and commercial centers. The purpose of the following regulations is to locate these uses in areas where the adverse impact of their operations may be minimized by the separation of such uses from one another and from other places of public congregation.

Provisions regarding adult business shall not apply to hospitals, nursing homes, medical clinics, physicians, nurses, medical assistants, physical therapists and other professionals who are licensed to practice their respective professions in the State of Michigan or who are permitted to practice temporarily under the auspices of an associate, while practicing within the scope of their license.

- (b) *Location.* Adult businesses, as defined in Article XX, Definitions, shall be permitted only within the C-3 district, and shall be subject to the following regulations:
- (1) Adult businesses shall not be permitted within a 1,000-foot radius of an existing adult business. Measurement of the 1,000-foot radius shall be made from the outermost boundaries of the lot or parcel upon which the proposed adult use will be situated.
 - (2) Adult businesses shall not be permitted within a 500-foot radius of a school, library, park, playground, day care center, licensed group home or institution for religious worship. Measurement of the 500-foot radius shall be made from the outermost boundaries of the lot or parcel upon which the proposed adult use will be situated.
 - (3) Person(s) shall not or permit any person to reside in the premises of an adult business.
 - (4) Businesses or residential uses shall not be located in the same building as an adult business.

(Ord. No. 1087, § 8.01, 3-8-10)

Sec. 24-142. - Adult foster care facilities.

- (a) Adult foster care facilities shall not be located within a 1,500-foot radius of another adult foster care facility.

(Ord. No. 1087, § 8.02, 3-8-10)

Sec. 24-143. - Assisted living facilities.

- (a) The location, size, design and operating characteristics of assisted living facilities shall be compatible with the character of the surrounding neighborhood, with consideration given to scale, size lot coverage, and density, available services and utilities, traffic and to any other relevant factors.
- (b) Assisted living facilities shall comply with all applicable federal and state regulations.

(Ord. No. 1087, § 8.03, 3-8-10)

Sec. 24-144. - Contractor's offices and storage yards.

- (a) A contractor's office building shall be of permanent construction. Temporary construction trailers shall not be permitted except on construction sites, with a temporary permit, in compliance with subsection 24-222(d)(7)b., Use limitations.
- (b)

Outdoor storage yards shall be strictly and clearly accessory to the contractor's principal office use of the property. Only products, materials and equipment owned and operated by the principal use shall be permitted for storage.

- (c) Storage yards for motorized equipment shall be hard-surfaced, paved with asphalt or concrete and graded as required by section 24-185, Building grades. Storage yards shall not be located within the required front yard or in any required off street parking, loading/unloading spaces or stacking spaces.
- (d) Storage yards shall be screened from adjacent properties zoned either residential, commercial, mixed use or office, in compliance with the requirements of section 24-194, Screening.
- (e) The loading and unloading of equipment and construction materials shall be conducted entirely within the site and shall not be permitted within a public right-of-way.
(Ord. No. 1087, § 8.04, 3-8-10)

Sec. 24-145. - Day care centers.

It is the intent of this section to establish standards for child day care centers which will ensure compatibility with adjacent land uses and preserve neighborhood character. Day care centers, as the term is defined in this chapter, shall be subject to the following requirements:

- (1) The property shall be kept free of rubbish and debris and shall be maintained so as to present a neat and attractive appearance at all times.
- (2) There shall be an outdoor play area of at least 300 square feet provided on the premises. Said play area shall not be located within the front yard setback.
- (3) Outdoor play areas shall be enclosed by a fence that is designed to discourage climbing and that is at least 42 inches in height but no higher than six feet.
- (4) Day care centers shall open no earlier than 6:00 a.m. and shall close no later than 8:00 p.m.
- (5) Day care centers shall comply with all applicable ordinances and with applicable state and federal laws. Any required licenses shall be posted in a conspicuous place on the premises.
- (6) Drop-off and pick-up areas shall be provided. Drop-off and pick-up areas shall be located in a manner which protects the safety of children, do not create traffic congestion on the site or within a public roadway and are not disruptive to neighboring uses.

(Ord. No. 1087, § 8.05, 3-8-10)

Sec. 24-146. - Drive-through facilities.

- (a) Consideration shall be given to proximity of existing places of congregation of children, such as schools, playgrounds and daycare centers and to pedestrian safety. Pedestrian sidewalks shall be separated from vehicular parking, stacking spaces, maneuvering lanes and loading/unloading areas by concrete curbs or greenbelts.
- (b) A traffic impact study shall be submitted with the application for site plan review.
- (c) Construction and maintenance of all on and off-site improvements that are deemed necessary to properly accommodate the proposed land use shall be provided by the land owners or developers at their expense. Such improvements include, but are not limited to, streets, curbs, catch basins, drains, sewers, curb cuts, driveways, deceleration and acceleration lanes, street lights, traffic control devices, landscaping, sidewalks, parking areas, land for street or alley relocation and screening walls.
- (d) The hours of service and the nature and intensity of the proposed land use shall be weighed against existing land uses in the area. Proposed uses shall not be permitted which present a significant interference to or materially detract from existing land uses in the area. The nature of the proposed land use shall be such as to contribute to a tendency for increased property values in the area and otherwise complement or reinforce existing or future land uses.
- (e) Sufficient attendant personnel and programs will be provided and maintained such that the land use will provide satisfactory service and protection to customers, clients and the public and such that the property and the improvements will be maintained in an attractive, clean and safe condition and will not contribute to the attraction or maintenance of undesirable factors, such as rodents.
- (f) Outdoor speakers for the drive-through facility shall comply with the provisions of Article III, Section 7-43 of the Code of Ordinances.
- (g) All lighting or illuminated displays shall not reflect into any adjacent residential property and shall comply with the Environmental Performance Standards.
- (h) Each drive-through facility shall comply with parking, approach and stacking space requirements of Article X, Off-Street Parking and Loading. Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and shall be located in a manner that does not create a traffic safety risk or congestion condition. Vehicular access shall be directly from a principal arterial road as defined in the master plan and with a minimum right-of-way width of 120 feet.
- (i) Each drive-through facility shall provide an escape lane to allow other vehicles to pass those waiting to be served.
- (j) Rear setbacks shall be 30 feet measured from the rearmost edge of construction of the building or canopy to the nearest residential property line except when such property is occupied by a use other than residential, in which case the setbacks of the district apply. Overhead canopy setbacks shall match the required building setbacks. Overhead canopies shall be constructed of materials consistent with the principal building. The proposed clearance of any canopy shall be noted on the site plan. Canopies shall be no higher than the principal building.
- (k) The drive-through access (window) shall be attached to the principal building.
- (l) Each drive-through facility shall be required to exceed the provisions of section 24-191, Landscaping and section 24-194, Screening by ten percent relative to screening and landscaping (for example an eight-foot wall becomes eight feet nine inches; a ten-foot wall becomes 11 feet; three trees per 25 parking spaces becomes four trees per 25 parking spaces. etc.
- (m) The planning commission, in approving a site plan under this subsection, may recommend conditions conforming to Section 125.3504 of Public Act 110 of 2006, as amended. A finding and determination factually supported in the materials submitted by the applicant for the special land use and contained in the public record of the proceedings of the planning commission shall be contained in a resolution in the form required Article XII, Special Land Use for each condition in (a) through (l) above.
- (n) Conditions may be required by city council in conjunction with the approval of a special land use. Conditions so required shall conform to the requirements of Section 125.3504 of PA 110 of 2006, as amended.

(Ord. No. 1087, § 8.06, 3-8-10)

Sec. 25-147. - Home businesses.

- (a) The following home businesses shall be permitted in single-family residential dwellings:
 - (1) Family day care homes and group day care homes as defined in this chapter and permitted by the State, as a special land use only.
 - (2) Instruction in crafts and fine arts, as provided by PA 110 of 2006 MCL 125.3204, as amended.
 - (3) Tutoring.
 - (4) Home offices and studios.
- (b) Home businesses must be clearly incidental and subordinate to the residential use of the home.
- (c) Home businesses that would require internal or external alterations, equipment or machinery not customary in residential areas shall not be permitted.
- (d) All activities shall be carried on within the dwelling, including storage, except as otherwise permitted by law.

- (e) Signs may not be attached to any building or structure or placed anywhere on the premises.
- (f) A home business shall not create a nuisance to the surrounding neighborhood, including but not limited to, excessive noise and parking problems.
- (g) A home business shall not cause more traffic than is normally generated for a single-family dwelling in a residential area and shall not draw truck traffic into the neighborhood.
- (h) Merchandise shall not be sold or offered for sale on the premises.

(Ord. No. 1087, § 8.07, 3-8-10)

Sec. 24-148. - Institutions for religious worship.

Institutions for religious worship or other public assembly shall be subject to the following requirements:

- (1) A minimum lot area of two acres is required.
- (2) Off-street parking shall not be located in any required front yard, setback or greenbelt and shall be screened in compliance with section 24-194, Screening.
- (3) The site shall be located on a major thoroughfare or principal street.
- (4) In all residential districts, on a lot occupied by a place of assembly, the width of each side setback shall be no less than ten feet.

(Ord. No. 1087, § 8.08, 3-8-10)

Sec. 24-149. - Lodging facilities.

- (a) Guests shall not rent a unit for more than 30 consecutive days within any 12 consecutive months.
- (b) Each unit shall measure no less than 250 square feet of floor area.
- (c) Boarding houses are prohibited.
- (d) Extended stay lodging facilities shall be allowed as a special land use only.

(Ord. No. 1087, § 8.09, 3-8-10)

Sec. 24-150. - Manufactured homes.

Manufactured homes shall not be located outside a manufactured home park unless the dwelling conforms to the requirements set forth for the specific zoning district and to the following standards:

- (1) The dwelling shall be firmly anchored to a permanent foundation in accordance with all pertinent building and fire codes. Dwellings shall not be installed with attached wheels. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
- (2) The dwelling shall contain no addition or room or other area which is not constructed with similar or better quality as the original structure. All additions shall be constructed on a permanent foundation.
- (3) Where the dwelling is required by state or federal law to comply with any regulations for construction that are different than those imposed for single-family site built housing, then such federal or state regulations shall control.

(Ord. No. 1087, § 8.10, 3-8-10)

Sec. 24-151. - Multiple-family dwellings.

- (a) Multiple-family dwelling façades shall not exceed 150 feet in overall length in a given plane, inclusive of any architectural features that are attached to the building or connect the parts of the building together.
- (b) The minimum distance between any two adjacent building planes shall be as follows, measured at the closest (most narrow) points between two buildings:
 - (1) Front to front, front to rear or rear to rear: 25 feet.
 - (2) End to end: 20 feet.
 - (3) End to front or end to rear: 30 feet.
 - (4) Exterior courts: Horizontal dimension in any direction shall not be less than 20 feet.
 - (5) Rear setback: 20 feet.
 - (6) Side setback: Required side setbacks shall increase by one foot for each ten feet or part thereof by which the multiple family dwelling exceeds forty feet in overall dimension on any elevation parallel to the side property line.
 - (7) Convenience or service establishments: Convenience or service establishments located on the ground floor of multiple-family dwellings shall provide adequate parking in accordance with Article X, Off-Street Parking and Loading. The total area of such establishments shall not exceed the lesser of 5,000 square feet or two percent of the total floor area of the multiple-family dwelling. Such uses shall not create a nuisance with the surrounding residential property use.
- (c) Access and circulation.
 - (1) All dwellings shall be readily accessible by fire and emergency vehicles from a paved street, paved access drive or other approved paved area. Private drives dedicated as fire lanes shall be posted with signs indicating "Fire Lane, No Parking".
 - (2) On-site streets and drives shall have a minimum width and radius as required by the Fire Department.
 - (3) Sidewalks or internal pedestrian paths shall be provided within developments and shall be located not less than five feet from access drives. Such sidewalks or paths shall provide convenient access to community buildings, parking areas and dwellings. Sidewalks and paths shall be a minimum of five feet in width and shall be constructed of concrete or decorative pavers.

(Ord. No. 1087, § 8.11, 3-8-10)

Sec. 24-152. - Open air businesses.

- (a) Sidewalk sales and outdoor sales of seasonal and transient products or materials shall be subject to the requirements of the business regulations and licenses section of the Ferndale Code of Ordinances.
- (b) Outdoor sales and/or rental of recreational vehicles, lawn care equipment, construction equipment and similar items and rental of motor vehicles shall comply with the following requirements:
 - (1) A landscaped greenbelt measuring a minimum of ten feet in width shall be provided at the front lot line. Vehicles or merchandise shall not be displayed within the required greenbelt.
 - (2) Strings of flags, pennants or bare light bulbs shall not be permitted.
 - (3) There shall be no outdoor loudspeaker or public address system.

- (4) Used items may only be sold as an accessory use to and in conjunction with an authorized dealer of new items, of the same kind, housed in a permanent building on the same lot.
- (5) The lot shall have a minimum area of 10,000 square feet, and a minimum frontage of 100 feet.
- (6) The outdoor sales area shall comply with section 24-185 Building Grades.
- (7) Ingress and egress driveways shall be located on a principal street, a minimum of 20 feet from any corner, and shall not be more than 25 feet wide. Only one curb cut for each 50 feet of frontage shall be allowed. Driveways shall be located a minimum of 50 feet apart, as measured along the property line.

(Ord. No. 1087, § 8.12, 3-8-10)

Sec. 24-153. - Parking structures.

- (a) Parking structures located along Eight Mile Road, Nine Mile Road, Woodward Avenue, Troy Avenue or Vester Street shall incorporate first floor retail or office uses. The planning commission may waive this requirement when it is found that the development of first floor retail or office uses will be inconsistent with the master plan or adjacent uses.
- (b) The height of any parking structure shall not exceed the maximum height of the district in which it is located.
- (c) Lighting shall be provided in compliance with the environmental performance standards ordinance.
- (d) Traffic circulation shall be designed so that no automobile need enter a public street in order to progress from one aisle to another within the same structure and so that no automobile need enter a public street backwards in order to leave the structure. Clear signs or pavement markings shall be provided to indicate traffic circulation.
- (e) The front setback area shall be landscaped in accordance with section 24-191 Landscaping.

(Ord. No. 1087, § 8.13, 3-8-10)

Sec. 24-154. - Recycling facilities.

Recycling facilities must comply with the definition set forth in Article XX, Definitions. No other types of facilities shall be permitted. Recycling facilities shall comply with the environmental performance standards ordinance and with the landscaping and screening requirements of section 24-191, Landscaping and 24-194, Screening.

- (1) Recycling facilities must also comply with the following requirements:
 - a. Vehicles must be unloaded by hand.
 - b. No more than 200 cubic yards of uncompacted recyclable materials may be accepted per day.
 - c. Maximum hours of operation are 7:00 a.m. to 10:00 p.m.
 - d. All processing and storage shall be conducted within an enclosed building.
 - e. Materials may only be stored on site for a maximum of 30 days.
 - f. The site shall be maintained free of litter, odors, pests and any other undesirable materials and shall be cleaned of loose debris on a daily basis.
 - g. Containers provided for after-hours donations of recyclable materials shall be at least 100 feet from any residential uses or zones. Containers shall be of sturdy, rust-proof construction, shall have sufficient capacity to accommodate the materials collected and shall be secure from unauthorized entry and unauthorized removal of materials.
 - h. An attendant shall be on site at all times during business hours.
 - i. Outdoor lighting shall be provided in compliance with the environmental performance standards ordinance.
- (2) The following shall be prohibited:
 - a. Accepting materials from vehicles with mechanical compaction devices.
 - b. Incineration of materials.
 - c. Recycling of flammable materials with a flashpoint under 100 degrees Fahrenheit.
 - d. Recycling or storage of corrosive, explosive, hazardous or toxic materials.
 - e. Transfer stations, composting facilities and waste handling facilities.

(Ord. No. 1087, § 8.14, 3-8-10)

Sec. 24-155. - Restaurants.

- (a) Where outdoor seating is permitted, outdoor amplified noise is prohibited after 10:00 p.m. in any district other than CBD.
- (b) When not in use for seven days, all outdoor furniture must be stored inside the building or off the premises.

(Ord. No. 1087, § 8.15, 3-8-10)

Sec. 24-156. - Reuse facilities.

- (a) Reuse facilities must comply with the following requirements:
 - (1) All processing and storage shall be conducted within an enclosed building.
 - (2) Maximum hours of operation are 7 a.m. to 10 p.m.
 - (3) Materials may only be stored on site for a maximum of thirty (30) days.
 - (4) The site shall be maintained free of litter, odors, pests and any other undesirable materials and shall be cleaned of loose debris on a daily basis.
 - (5) An attendant shall be on site at all times during business hours.
 - (6) Outdoor lighting shall be provided in compliance with the environmental performance standards ordinance.
- (b) The following shall be prohibited:
 - (1) Receipt or storage of corrosive, explosive, hazardous or toxic materials.
 - (2) Receipt or storage of batteries.
 - (3) Receipt or storage of any vehicles, heavy equipment or vehicle parts.
 - (4) Drop off of goods or materials during non-business hours.
 - (5) Incineration of materials.

(Ord. No. 1087, § 8.16, 3-8-10)

Sec. 24-157. - Self-storage facilities.

- (a) Self-storage facilities shall be subject to the following requirements:

- (1) Unless all storage units can only be accessed from inside the building where they are located, screening walls shall surround the property.
- (2) Access to storage units shall be restricted to customers and employees with mechanical or electronic locking devices at all access points.
- (3) An attendant shall be on site at all times during business hours. An apartment may be provided on site for the attendant.
- (4) The site shall be maintained free of litter, odors, pests and any other undesirable material and shall be cleaned of loose debris on a daily basis.
- (5) Self-storage facilities shall comply with the design standards applicable to non-residential buildings.
- (6) Outdoor lighting shall be provided in compliance with the environmental performance standards ordinance.
- (7) Landscaping shall be provided in compliance with section 24-191, Landscaping.
- (8) Self-storage units that are designed to be individually accessed by vehicles must have paved 24-foot wide continuous access lanes.
- (9) All driveways and access lanes shall comply with section 24-223, Off-street parking requirements and section 24-224, Parking design. Site circulation shall be designed to accommodate fire trucks and equipment, as well as trucks that will customarily access the site.
10. No one shall be permitted to reside or socialize in storage areas or inside storage units.
- (b) The following shall be prohibited:
 - (1) Commercial, wholesale, retail, industrial or other business activity with the exception of minor storage-related commercial activity, such as the sale of packing materials.
 - (2) Storage of any toxic, explosive, corrosive, flammable, illegal or hazardous materials.
 - (3) Outdoor storage.

(Ord. No. 1087, § 8.17, 3-8-10)

Sec. 24-158. - Single-family attached dwellings.

The following standards shall apply to single-family attached dwellings in R-2, R-3 and MXD districts:

- (1) *Building length and Height.* Single-family attached dwelling façades shall not exceed 150 feet in overall length in a given plane, inclusive of any architectural features that are attached to or connect the parts of the building together.
 - (2) *Building spacing.* The minimum distance between any two adjacent building planes shall be as follows, measured at the closest (most narrow) points between two buildings:
 - a. Front to front, front to rear or rear to rear: 25 feet.
 - b. End to end: 20 feet.
 - c. End to front or end to rear: 30 feet.
 - d. Exterior courts: Horizontal dimension in any direction shall not be less than 20 feet.
 - e. Rear setback: 20 feet.
 - f. Side setback: Required side setbacks shall increase by one foot for each ten feet or part thereof by which the multiple family dwelling exceeds 40 feet in overall dimension on any elevation parallel to the side property line.
 - g. Required step back: Where building height exceeds three stories in R-3 and R-4 districts, façades adjacent to R-1 or R-2 districts shall step back 15 feet above the third story.
 - (3) *Access and circulation.* Single-family attached developments shall comply with the following requirements for access and circulation:
 - a. *Emergency access:* All dwellings shall be readily accessible by fire and emergency vehicles from a paved street, paved access drive or other approved paved area. Private drives dedicated as fire lanes shall be posted with signs indicating "Fire Lane, No Parking".
 - b. *Street dimensions.* On-site streets and drives shall have a minimum width and radius as required by the fire department.
 - c. *Sidewalks:* Sidewalks or internal pedestrian paths shall be provided within developments and shall be located not less than five feet from access drives. Such sidewalks or paths shall provide convenient access to community buildings, parking areas and dwellings. Sidewalks and paths shall be a minimum of five feet in width and shall be constructed of concrete or decorative pavers.
 - (4) *Landscaping.* Single-family attached developments shall be landscaped in accordance with section 24-191, Landscaping, and the vegetation ordinance.
- (Ord. No. 1087, § 8.18, 3-8-10)

Sec. 24-159. - Upper-level residential.

- (a) Upper-level residential uses shall not be located at street level or in the basement.
 - (b) Stories located above a residential use shall not be used for business or office purposes.
 - (c) Buildings having residential uses in combination with business or office uses may have a common lobby area, provided that commercial and office users do not have access to the residential portions of the building.
 - (d) Loading docks, service areas and doors accessing them shall be permitted at the rear of the building only.
 - (e) Businesses shall not be open to the public between 2:30 a.m. and 6:00 a.m.
 - (f) All buildings must comply with the schedule of regulations for the underlying zoning district.
 - (g) All land uses shall comply with the environmental performance standards ordinance.
 - (h) Signs shall be permitted only if attached to the face of the building. Signs shall comply with the sign ordinance (and with the appearance review ordinance if located in the DDA) and shall advertise only the name of the business or activity conducted within.
 - (i) If the underlying zoning district is located in the DDA, the front façade of the principal building at street level shall be located within six (6) feet of the front property line.
 - (j) All business, servicing or processing shall be conducted completely within enclosed structures except for those open air uses permitted in this Section or in the underlying district. Outdoor storage is prohibited.
 - (k) Goods produced on the premises shall be sold at retail on the premises.
 - (l) All developments that include residential uses must comply with section 24-184, Architectural compatibility and design guidelines applicable to non-residential buildings.
- (Ord. No. 1087, § 8.19, 3-8-10)

Sec. 24-160. - Vehicle dealerships.

Vehicle dealerships shall be subject to the following requirements:

- (1)

Vehicle dealerships may integrate a single business operation at one location which includes all of the following components: (1) the sale of new or new and used vehicles, (2) major and minor vehicle repair and (3) associated retail activities such as, by way of example, the sale of parts and accessories. New vehicles shall be displayed in a showroom. Used vehicles may be displayed within or outside of a building, but sales transactions must be conducted within a building located on the premises where the vehicles are displayed. The outside sale of vehicles shall comply with the additional requirements of subsection (4), below.

- (2) At the discretion of the planning commission, the required major vehicle repair operation may be conducted at a location within the city that is physically remote from the dealership when deemed appropriate to reduce the possible adverse effect of generating noise and fumes near residential areas. The remote major vehicle repair facility must be situated in a zoning district that specifically permits major vehicle repair facilities and must comply with applicable provisions of section 24-161, Vehicle-related businesses and section 24-233, Off-Street Parking Requirements.
- (3) Vehicle dealerships with all required components physically integrated at a common location shall not be subject to the individual requirements of this chapter established for separate or free standing vehicle service stations, vehicle major and minor repair or vehicle washes, provided that all applicable provisions of the building code, National Fire Prevention Code, NFPA Standards, Michigan State Police Fire Marshall Flammable Liquid Regulations, Michigan Department of Environmental Quality regulations, the Environmental Performance Standards Ordinance and all applicable State of Michigan and Federal laws, regulations, standards and ordinances, are complied with.
- (4) Outside sales of automobiles are permitted only at a vehicle dealership and shall not be governed by the requirements of section 24-152, but shall instead comply with the following:
 - a. A landscaped greenbelt measuring a minimum of ten feet in width shall be provided at the front lot line. Automobiles shall not be displayed within the required greenbelt.
 - b. Strings, flags, pennants or bare light bulbs shall not be permitted.
 - c. Outdoor loudspeakers or public address system shall not be permitted.
 - d. The open lot displaying the used vehicles shall contain not less than 10,000 square feet and a minimum frontage of 100 feet.
 - e. The outdoor sales area shall comply with section 24-195, building grades.
- (5) Ingress and egress to a vehicle dealership shall be to and from a public street and designed to provide optimal safety to pedestrians and vehicles, with minimal impact upon residential streets.

(Ord. No. 1087, § 8.20, 3-8-10)

Sec. 24-161. - Vehicle-related businesses.

Vehicle service stations (including those associated with other businesses), vehicle major and minor repair establishments and vehicle washes shall be subject to the following requirements:

- (1) All applicable provisions of the current building code, the National Fire Prevention Code of the City of Ferndale, NFPA Standards, Michigan State Police Fire Marshal Flammable Liquid Regulations, Michigan Department of Environmental Quality regulations, the Environmental Performance Standards Ordinance and any other applicable Federal and State laws and ordinances. Wherever any conflict exists in the above codes, the stricter provision shall apply.
- (2) All such uses shall have a frontage of not less than 140 feet along a principal street and a minimum area of 14,000 square feet.
- (3) Ingress and egress driveways shall be located on a principal street, a minimum of 20 feet from any corner, and shall not be more than 25 feet wide. Only one curb cut for each 50 feet of frontage shall be allowed. Driveways shall be located a minimum of 50 feet apart, as measured along the property line.
- (4) Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and shall be located in a manner which does not create a traffic safety or congestion problem.
- (5) Pedestrian sidewalks shall be separated from vehicular parking, stacking spaces and maneuvering lanes by concrete curbs or greenbelts.
- (6) Vehicle sales shall not be permitted on the premises.
- (7) All work, including but not limited to sales, repairs, servicing, greasing and/or washing vehicles, shall be conducted within an enclosed building that is equipped with doors that are secured during non-business hours.
- (8) Outdoor storage or parking of vehicles shall be prohibited between the hours of 10:00 p.m. and 6:00 a.m. except that no more than four vehicles undergoing repair may be parked on the lot overnight.
- (9) All exterior lighting, including illuminated signs, shall comply with applicable ordinances. No light or glare shall extend beyond the property line. No strings of flags, pennants or bare light bulbs shall be permitted.
- (10) There shall be no broadcast of music or announcements over any loudspeaker or public address system, except for emergency safety announcements.
- (11) All combustible waste and rubbish shall be kept in metal receptacles fitted with a tight cover until removed from the premises. No gasoline, oil, grease or flammable liquid shall be allowed to flow into or be placed in the drainage system. Oil, gasoline, grease and flammable liquids shall not be allowed to accumulate on the floor or to be absorbed into the ground. Combustible materials such as sawdust shall not be used to absorb gasoline, oil, grease or flammable liquids.
- (12) Vehicle service stations shall comply with the following provisions:
 - a. Every person, firm or corporation who intends to construct, reconstruct, convert or alter any automobile service station shall furnish the fire chief and the CDD director with plans for the proposed service station. These plans shall include the proposed location of pump islands, control console and fire extinguishers.
 - b. A qualified attendant or supervisor, at least 16 years of age, shall be on duty at all times that the station is open for business and shall be familiar with and trained to operate the fuel dispensing equipment shut-off controls.
 - c. Fuel dispensing units shall be located no less than 15 feet from any lot line and their off-street stacking space shall comply with section 24-224, Parking Design.
 - d. Service stations shall have no more than eight fuel dispensing units, each accommodating a maximum of two vehicles, and two enclosed stalls for minor repairs. An additional two (2) fuel dispensing units and one enclosed stall may be included for each additional 2,000 square feet of lot area above the minimum area set forth in subsection 24-161(b), Vehicle-related businesses.
 - e. Where a service station site abuts any residentially zoned district, a screening wall shall be provided in accordance with section 24-194, Screening.

(Ord. No. 1087, § 8.21, 3-8-10)

Sec. 24-162. - Vehicle storage facilities.

The design, construction, screening and landscaping of vehicle storage facilities shall comply with section 24-191, Landscaping and 24-194, Screening, and with Article X, Off-Street Parking and Loading. Facilities must comply with the environmental performance standards ordinance and with the sign ordinance. Unless otherwise provided in this Section, vehicle storage facilities shall comply with the requirements of section 24-157, Self-storage facilities. Vehicle storage facilities shall also be subject to the following

requirements:

- (1) Indoor facilities:
 - a. Floor drains shall be prohibited.
 - b. Compliance with the Ferndale Fire Prevention Code is required.
- (2) Outdoor facilities:
 - a. Minimum site area of two acres; maximum site area of five acres.
 - b. Screening walls surrounding the property must be built in compliance with section 24-194, Screening. All access points shall have mechanical or electronic locking devices for security. Access shall be restricted to customers and employees only.
 - c. Site drainage shall comply with all applicable federal and state laws. Secondary containment shall be required.
 - d. Site plans shall specify if the facility will allow the storage of any vehicle over 30 feet in length.
- (3) The following uses shall be prohibited:
 - a. All commercial, wholesale, retail and industrial business uses with the exception of minor storage-related commercial activity.
 - b. All residential uses except for a caretaker's apartment. Sleeping or living in the vehicles parked on the premises is strictly prohibited.
 - c. Vehicle repair, maintenance, detailing and restoration.
 - d. Recreational activity.
 - e. Installation of electrical, water or sewer connections to individual storage spaces.
 - f. Storage of any vehicle carrying toxic, explosive, corrosive, flammable, illegal or hazardous materials.
 - g. Storage of contractor materials and construction equipment.
 - h. Facilities open between 10:00 p.m. and 7:00 a.m.
- (4) Outdoor lighting shall be provided in compliance with the environmental performance standards ordinance.

(Ord. No. 1087, § 8.22, 3-8-10)

Sec. 24-163. - Wind energy conversion systems (WECS).

WECS larger than those allowed in section 24-183, accessory buildings and structures and WECS used primarily to generate energy for commercial sale and wind farms, where permitted, shall be subject to the following requirements:

- (1) All applications shall be accompanied by the following information, in addition to the site plan as required in Article XI, Site Plan Review:
 - a. Location and height of all purposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing and other above ground structures associated with the WECS.
 - b. Location of all existing and proposed overhead and underground electrical utility, transmission or distribution lines.
 - c. Existing and proposed setbacks for the WECS from all structures located on the property where the WECS will be located.
 - d. Description of the proposed maintenance program, including maintenance schedules, the types of maintenance to be performed and removal procedures and schedules should the WECS become obsolete or abandoned.
 - e. A copy of the manufacturer's installation instructions and blueprints.
 - f. Drawings and engineering calculations certified by a registered engineer licensed in the State of Michigan.
 - g. A copy of the Federal Aviation Administration (FAA) Form 7460-1, Notice of Proposed Construction or Alteration, which has been submitted to the FAA. This form must be approved prior to issuance of a building permit.
- (2) The permitted maximum total height of a WECS shall be 200 feet (with the blade in the vertical position). Additional height restrictions may be imposed by the FAA. The WECS shall not be located or erected to a height that would pose a hazard to aircraft operations.
- (3) WECS shall be constructed with tubular towers. Lattice towers are prohibited.
- (4) The setback for placement of a WECS shall be at least equal to the height of the WECS from all lot lines and any public street right-of-way.
- (5) Blade arcs created by a WECS shall have a minimum of 75 feet of clearance over and from any structure, adjoining property or tree. The minimum blade or rotor clearance above ground level shall be at least 20 feet.
- (6) Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds within 80 percent of design limits of the rotor.
- (7) Each WECS must provide an anti-climb device.
- (8) Each WECS shall have one sign, not to exceed two square feet in area, posted at the base of the tower. The sign shall contain high voltage warning, emergency numbers and emergency shutdown procedures. If fenced, signs shall be placed on the fence.
- (9) Lighting shall be limited to that required by the FAA. The plan shall include, but is not limited to, the number and location of lights, light color and whether any lights will be flashing.
- (10) WECS shall be painted a non-obtrusive, non-reflective light environmental color such as beige or gray. Striping of color or advertisement shall be prohibited.
- (11) All distribution lines from the WECS to the electrical grid connection shall be located and maintained underground.
- (12) WECS shall be designed, constructed and operated so as not to cause radio and television interference. In the event that electromagnetic interference is experienced, the applicant must provide alternate service to each individual resident or property owner affected.
- (13) Noise emissions from the operation of a WECS shall not exceed 45 decibels on the DBA scale as measured at the nearest lot line or street.
- (14) WECS must be kept and maintained in good repair and condition at all times. The applicant shall keep a maintenance log on each WECS that the city can review.
- (15) Any WECS not used for one year or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property by the owner. All above and below ground materials must be removed. The ground must be restored to its original condition within 60 days of abandonment.

(Ord. No. 1087, § 8.23, 3-8-10)

Sec. 24-164. - Wireless communication facilities.

Wireless communication facilities must comply with the wireless communication facilities ordinance.

(Ord. No. 1087, § 8.24, 3-8-10)

Sec. 24-165. - Medical marihuana facility and medical marihuana grow operation.

(a) Medical marihuana facility shall be subject to the following requirements.

- (1) Primary caregivers and/or qualified patients at the facility must be legally registered by the Michigan Department of Community Health (MDCH) to assist qualified patients with the medical use of marihuana in accordance with the Michigan Medical Marihuana Act, as amended.
- (2) The facility shall not be allowed within 500 feet of an educational institution, nursery school, or child care center, or another medical marihuana facility or medical marihuana grow operation.
- (3) The facility shall be available for inspection, during business hours, by the city manager or the city Manager's designee to confirm the facility is operating in accordance with all applicable laws, including state law and city ordinances.
- (4) The facility shall open no earlier than 8:00 a.m. and close no later than 8:00 p.m.
- (5) The facility shall not be permitted to have drive-thru facilities.
- (6) No use of medical marihuana at the facility.
- (7) No patients shall be allowed in facility after hours.
- (8) The parking requirements for a facility shall be consistent with the parking requirements for medical clinics.
- (9) A security plan and floor plan shall be submitted with applications for a facility. The facility shall identify the number of plants, chemical storage, space and other critical aspects of the layout. The security and floor plan shall be a confidential document by the city exempt from disclosure under the Freedom of Information Act.
- (10) A waste disposal plan shall be included with all applications for a facility detailing plans for chemical disposal and plans for plant waste disposal.

(b) Any medical marihuana grow operation, in addition to the requirements of subsection (a), shall comply with the following requirements:

- (1) The grow operation shall be in compliance with fire protection Code.
- (2) The grow operation shall receive OSHA/MIOSHA certifications regarding safety of environment for facility's caregivers.
- (3) The grow operation shall obtain MDEQ and City of Detroit approval regarding discharge of growing by-products into the city sewer system.
- (4) The following shall be prohibited:
 - a. Storage of toxic, flammable or hazardous materials;
 - b. Discharge of any toxic, flammable or hazardous materials into city sewer system;
 - c. No residential uses within the same building/structure;
 - d. No outdoor storage.
 - e. No minors in the facility without a parent and/or guardian.
- (5) The grow operation shall open no earlier than 8:00 a.m. and close no later than 8:00 p.m., except staff may be at the operation necessary to attend to the grow operation.
- (6) The parking requirements for a grow operation in M-1 and M-2 Districts shall be consistent with the parking requirements for manufacturing facilities.
- (7) A security plan and floor plan shall be submitted with applications for a grow operation shall identify the number of plants, chemical storage, space and other critical aspects of the layout. The security and floor plan shall be a confidential document by the city exempt from disclosure under the Freedom of Information Act.
- (8) A waste disposal plan shall be included with all applications for a grow operation detailing plans for chemical disposal and plans for plant waste disposal.

(Ord. No. 1087, § 8.25, 3-8-10; Ord. No. 1096, Pt. I, 8-23-10)

Sec. 24-166. - Novelty store.

- (a) No such novelty shop shall be permitted within a 1,000-foot radius of another novelty shop. Measurement to the 1,000-foot radius shall be made from the outer most boundaries of the lot upon which the proposed establishment is proposed to be situated.
- (b) No such novelty shop shall be permitted within a 500-foot radius of a school, library, playground, licensed group day-care center, or church, convent, monastery, synagogue or similar place of worship. Measurement to the 500-foot radius shall be made from the outer most boundaries of the lot or parcel upon which the proposed establishment will be situated.

(Ord. No. 1126, Pt. I, 7-9-12)

Sec. 24-167. - Pet boarding facilities.

Pet boarding facilities must comply with the following requirements:

- (1) Pets may be boarded at a pet boarding facility for a maximum of 30 consecutive days.
- (2) On-site vehicular circulation shall be configured to accommodate vehicles within the boundaries of the property. Drop-off or pick-up of a pet shall not stop or park on a public street.
- (3) Any pets being boarded overnight shall be confined within the building between the hours of 10:00 p.m. and 7:00 a.m.
- (4) Pet boarding facilities shall be constructed, maintained, and operated so sounds and smell of animals cannot be discerned outside of the building. Outdoor runs shall be maintained so that odors are not discernible from adjacent properties.
- (5) Unless otherwise approved by the planning commission, outdoor runs for pets on or off-leash shall be set back a minimum of 50 feet from any adjacent residential zoning district. The planning commission may request any information it deems necessary to evaluate any request for a reduction from the required setback. Outdoor runs shall be located as far as practicable from any adjacent residential zoning district.
- (6) Any outdoor runs where pets are permitted off-leash shall be surrounded by a minimum 72-inch tall opaque screen. If the screen will be visible from any adjacent residential district or road right-of-way, it shall be decorative in nature. Outdoor runs shall be restricted to the side and rear yard, outdoor runs shall not be permitted in the front yard.
- (7) The planning commission may require a landscaped buffer or solid wall to be provided between any outdoor run and any adjacent residential district if the location of the proposed outdoor run is determined to negatively impact the adjacent residential district.

(Ord. No. 1129, Pt. I, 7-9-12)

Secs. 24-168—24-180. - Reserved.

ARTICLE IX. - GENERAL PROVISIONS

Sec. 24-181. - Intent.

The intent of this article is to provide for those regulations that generally apply to all uses regardless of the particular zoning district and to those special land uses that may be permitted in certain zoning districts upon approval by the city council. Whenever any provision of this chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this chapter shall govern unless prohibited by law. Nothing in this chapter shall require any change in plans, construction or designated use of any building upon which actual construction was lawfully begun prior to its adoption.

(Ord. No. 1087, § 9.01, 3-8-10)

Sec. 24-182. - Abandoned businesses.

During any period when a business is vacated, closed or otherwise not open for business for more than 30 consecutive days, the owner or lessee shall comply with the following regulations:

- (1) Vehicular parking and storage shall be prohibited at all times anywhere on the premises, except as necessary for construction in connection with a building permit or for maintenance of the premises. The owner or lessee shall post a sign or signs on the premises giving notice that all parked or stored vehicles shall be ticketed and removed by the city at the vehicle owner's expense.
- (2) The premises shall be kept free of rubbish and debris and the grass, if any, shall be well-kept and cut as necessary so as to present a neat and attractive appearance at all times.
- (3) Within 30 additional days after such closing, all curb cuts shall be closed to vehicular traffic by bumper blocks or the equivalent, as may be approved by the community development department.

(Ord. No. 1087, § 9.02, 3-8-10)

Sec. 24-183. - Accessory buildings, structures and uses.

Accessory buildings and structures shall be constructed in accordance with the following section. A permit from the community development department is required prior to construction.

- (1) *Residential uses.* Accessory buildings and structures within residential districts shall comply with the following requirements:
 - a. Accessory buildings or structures shall not be built upon a lot or parcel unless and until a principal building is erected.
 - b. Where a garage or carport is structurally attached to the principal building, it shall be built only in the rear or side yard and shall be considered part of the principal building for purposes of all setback regulations and building codes applicable to principal buildings.
 - c. Front façade attached garages shall be allowed if all of the following conditions are met:
 1. Any front façade garage will be set back a minimum of five feet from the building façade.
 2. Any single garage door will not exceed eight feet in width or eight feet in height.
 3. Any two garage doors will be separated by a minimum two-foot solid jamb.
 4. The garage opening on the building façade shall not exceed 50 percent of the total linear building frontage.
 - d. Detached accessory buildings or structures shall not be constructed within ten feet of any principal building located on the same lot or parcel.
 - e. One accessory building shall be permitted per lot unless the lot is of such dimension that a second structure can be built at least 25 feet from any other building or structure located on the same lot and a minimum of five feet from any property line or edge of an easement.
 - f. Detached accessory buildings and structures shall be located a minimum of five feet from any adjoining lot line or easement. On corner lots and alleys, detached accessory buildings and structures shall be located at least ten feet from the lot line adjacent to the side street or alley.
 - g. All accessory buildings and structures shall be located in the side or rear yard.
 - h. Accessory buildings and structures shall be included in lot coverage limitations.
 - i. The building height of an accessory building or structure shall not exceed 16 feet.
 - j. Detached carports shall not be constructed closer to the side or rear lot line than the permitted distance for a residential garage. Portions of the carport shall not extend into the required front yard area. Detached carport structures for multiple family residential dwellings shall be screened in accordance with applicable city ordinances.
 - k. Accessory buildings located on double frontage (through) lots shall observe front yard setback requirements on both streets.
 - l. Play structures for children shall not be considered accessory buildings, but shall comply with the provisions of (1)a., d., f. and g., above.
 - m. Detached accessory buildings or structures shall not have a greater square footage than the principal building on the same lot.
- (2) *Non-residential uses.* Accessory buildings and structures within all other districts shall comply with the following requirements:
 - a. Accessory buildings or structures shall not be built upon a lot or parcel unless and until a principal building is erected.
 - b. Accessory buildings and structures shall be subject to all of the same requirements as principal buildings in the district in which they are located.
 - c. Accessory buildings located on double frontage (through) lots shall observe front yard setback requirements on both streets.
- (3) *Energy uses.*
 - a. *Wind energy conversion systems (WECS).* WECS designed to service the energy needs of the property where the structure is located shall be allowed as an accessory structure in all districts, subject to the following requirements:
 1. Only one WECS shall be permitted per lot.
 2. The height of the overall WECS with the blade in the vertical position shall not exceed 80 feet above ground level.
 3. All towers shall be set back a distance at least equal to the height of the overall WECS from all lot lines. The height shall be measured to the top of the blade at its highest point.
 4. Blade arcs created by a WECS shall not interfere with any structure, utilities or vegetation. The minimum blade or rotor clearance above ground level shall be at least 20 feet.
 5. All towers used to support the wind generating equipment shall be adequately anchored.
 6. The WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds within 80 percent of design limits of the rotor.
 7. Noise emissions from the operation of a WECS shall not exceed 45 decibels on the DBA scale as measured at the nearest lot line or road.

8. To prevent unauthorized climbing, the WECS must include an anti-climb device.
9. Any WECS not used for one year or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property by the owner of the WECS.
- b. *Solar energy systems.* Solar energy systems designed to service the energy needs of the property where the structure is located shall be allowed as an accessory structure in all districts, subject to the following requirements:
 1. Solar energy systems shall meet the requirements of this section and all other applicable construction codes.
 2. The design of the solar energy system shall conform to applicable industry standards.
 3. Solar energy systems shall be screened per the discretion of the community development department.
 4. Solar energy systems shall meet height and setback requirements of the zoning district in which they are located.
 5. Solar energy systems shall be securely anchored to the ground or a permanent structure.
 6. A ground-mounted solar energy system shall comply with the accessory structure restrictions contained in the zoning district where it is located.
 7. All exterior electrical and/or plumbing lines must be buried below the surface of the ground in compliance with current code.
 8. Any solar energy system not used for one year or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property by the owner of the solar energy system.
 9. Waiver. Upon request, the planning commission may grant waivers of the setback or height requirements, provided that the waiver will not present any undue hardships on adjoining properties. The Planning Commission shall take into consideration the support or opposition of adjacent property owners in granting waivers of setback or height requirements.
- (4) *Outdoor display, sales and storage.* Outdoor display, sales, or storage accessory to an approved principal use may be approved by the planning commission if deemed compatible with surrounding land uses and found to be compatible with the character of the area in accordance with the following:
 - a. *In general.*
 1. Goods and materials shall not be piled or stacked higher than the height of the screening wall. Vehicles, truck trailers, implements, and recreational vehicles may exceed the height of the screening wall provided that they are set back from the screening wall a distance equal to their height.
 2. The outdoor display, sales and storage of fertilizers, pesticides, and other hazardous materials is prohibited.
 3. Soil, sand, mulch, and similar loosely packaged materials shall be contained and covered to prevent it from blowing into adjacent properties.
 4. All areas shall be paved with a permanent, durable, and dustless surface and shall be graded and drained to dispose of all surface water.
 5. The applicant shall demonstrate there will be adequate parking for the existing uses as well as the proposed outdoor sales, display or storage.
 6. The location shall not interfere with public passage or the otherwise normal flow of pedestrian or vehicular traffic.
 7. Lighting for security purposes may be required as determined by the planning commission.
 8. Temporary uses that occur for less than two weeks in any calendar year are exempt from these regulations.
 - b. *Display or sales.*
 1. Outdoor display or sales is permitted in all mixed-use, commercial, and office districts.
 2. Outdoor display or sales areas may occupy up to 15 percent of each front, side, and rear yard respectively, provided all setbacks are met.
 3. Outdoor display or sales areas shall be screened from view by a masonry wall where the display area abuts a residential district.
 - c. *Storage.*
 1. Outdoor storage is permitted in all industrial districts.
 2. Screening of outdoor storage areas shall consist of any combination of fences, walls, berms and landscaping that are at least eight feet in height that in the opinion of the city provides a permanent, opaque, year-round screening around the entire perimeter of the outdoor storage area.
 3. Outdoor storage shall not be located in the front yard.
- (5) *Temporary construction uses.*
 - a. Temporary buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation, solid waste, or fuel facilities, related to construction activity on the same lot.
 - b. The building or structure shall not be used for dwelling purposes.
 - c. Temporary buildings and structures shall be removed from the lot within 30 days after an occupancy permit is issued by the community development department for the permanent structure on such lot, or within 30 days after the expiration of a building permit issued for construction on such lot.
- (6) *Portable moving and storage containers.* A single portable moving and storage container may be placed on an occupied lot for the purpose of loading or unloading items to be transported to another location, subject to the following restrictions:
 - a. The portable moving and storage container may be placed on an occupied lot for up to 30 days.
 - b. The container shall be located on a paved surface on the lot and shall not be located in the public right-of-way or a private road easement.
 - c. This section shall not apply to freight containers or truck trailers located in an industrial district in accordance with D above.
- (7) *Donation boxes and vending machines.*
 - a. Outdoor donation boxes shall be permitted in the C-3, OS, M-1, M-2, and P-1 districts. They shall not be permitted in the front yard, or any landscape greenbelt and shall not be permitted in a location that would block parking spaces, or loading areas and shall not obstruct vehicular and pedestrian circulation, fire lanes, or sidewalks.
 - b. Outdoor vending machines shall be prohibited. This provision shall not apply to racks.

(Ord. No. 1087, § 9.03, 3-8-10)

Sec. 24-184. - Architectural compatibility and design guidelines.

(a) *Purpose.* The purpose of this section is to advance the interest of public health, safety and general welfare as related to the exterior of buildings by:

- (1) Stabilizing and reinforcing property values to protect private and public investment, reverse area decline and upgrade building quality.
- (2) Promoting the renovation of existing buildings and neighborhoods in order to preserve and reinforce their natural, historic, cultural, social and architectural qualities.
- (3) Encouraging the enhancement and maintenance of the economic vitality and character of the city.
- (4) Ensuring that new projects are compatible with the character of the surrounding area.

- (b) *Standards.* The community development department shall determine whether the standards of this section are met and shall have discretion to forward the matter to the planning commission for final determination.
- (c) *Existing sites.* Existing buildings and structures undergoing improvement, alteration, or change in use or expansion shall be brought into reasonable compliance with the minimum standards of this section.
- (d) *Non-residential, mixed use and multiple family residential buildings.* The following design standards apply to all non-residential buildings and structures, including upper level residential in non-residential districts:
 - (1) *Building materials and colors.*
 - a. The following exterior finish materials shall be permitted: natural clay brick, glazed brick, ceramic tile, stone, finished metal panels, glass, glass block, molded cornices and trim, plank wood, fiber cement materials, cement plaster and similar materials.
 - b. The following exterior finish materials shall be prohibited: vinyl siding; E.I.F.S. covering more than ten (10) percent of any elevation; concrete masonry units covering more than ten percent of any wall facing a public right-of-way; T1-11 and other plywood siding materials; and cantilevered mansard roofs.
 - c. Building materials shall be durable, weather-resistant, rustproof and kept in good condition by the property owner or tenant at all times.
 - d. The color of each façade material shall be harmonious with the color of all other façade materials used on the same building and on adjacent buildings and shall be in character with or improve the character of the surrounding area. For the purposes of this chapter, colors are harmonious if they are complementary in hue, tone and intensity.
 - (2) *Details.*
 - a. Buildings may provide architectural variety, but shall enhance the overall cohesive community character or the character of the neighborhood.
 - b. Buildings shall provide architectural features, including but not limited to details and ornaments such as archways, colonnades, cornices, recesses, projections, wall insets, arcades, window display areas, peaked roof lines or towers.
 - c. Building walls and roofs over 100 feet in length shall be articulated with varying building lines, windows, gables, architectural accents and vegetation that provide adequate visual variation.
 - d. Building setback and roof lines shall generally match the established pattern of buildings on adjacent properties to maintain the existing street patterns and design.
 - e. Balconies, railings and porch structures shall be metal, wood, glass, cast concrete or stone.
 - f. Mullion storefront systems shall be primed and painted, anodized or powder-coated.
 - g. Structural elements that support signage shall be primed and painted, anodized or powder-coated.
 - h. In the CBD district, building façades at street level facing public rights of way shall consist of at least 50 percent window area. Upper level windows shall be vertically proportioned and tinted and reflective glass are prohibited.
 - (3) *Sustainable Design.* Building design that promotes sustainable development, including Leadership in Energy and Environmental Design (LEED), shall be encouraged.
 - (4) *Overhead loading doors.* Overhead loading doors shall not face a public street or residential district. The planning commission can waive this requirement upon a determination that there is no reasonable alternative, it is essential to the operation of the business, and the visual impact will be moderated through use of building materials, architectural features or landscaping. This provision is not intended to regulate retail customer access; however, overhead vehicular access doors facing a public street are discouraged.
 - (5) *Awnings.*
 - a. Façades may be supplemented by straight-shed or domed awnings.
 - b. Glass, steel, canvas and other natural fabric awnings shall be permitted, while slatted metal, vinyl, plastic and other synthetic awnings are prohibited.
 - c. The front extended edge of awnings shall be compatible in height to others in the same block, but in no case shall be lower than eight feet six inches above grade.
 - d. Awnings shall be compatible in color to others in the same block.
 - e. Back-lit and internally illuminated awnings shall be prohibited, however directional down lighting is permitted for illumination of grade.
 - f. Awnings shall be constructed so as to discourage harborage of birds and their structural elements shall be primed and painted, anodized or powder-coated.
 - g. Signage on awnings shall be restricted to the name and address of the businesses located on the site. Refer to the sign ordinance for other requirements.
 - (6) *Waiver.* The planning commission may waive the requirements of this section if it finds that a proposed building design is in keeping with the intent of this section and the recommendations of the master plan and meets all of the following conditions:
 - a. It is determined to not be grossly dissimilar in exterior design and appearance to nearby buildings and it does not adversely affect property values in the surrounding area.
 - b. It does not adversely affect the desirability of immediate and neighboring areas.
 - c. It does not impair the stability of the area or prevent the most appropriate use and development of real estate.
 - d. It does not adversely affect the public health, safety, comfort and welfare of the citizens of the city.
 - e. A structure may be determined to be compatible in design and appearance to other structures in the context in which it is to be located, even if it does not comply with the above criteria, if it has other design features that make it harmonious with other structures or improve the character of the area in which it is located.
- (e) *Residential dwellings.* New construction of single family detached and attached residential dwellings shall be compatible in design and appearance to dwellings in the surrounding neighborhood. The following design standards apply:
 - (1) The rhythm established in the neighborhood through the existing architectural elements shall be maintained. Building setback and roof lines shall generally match the established pattern of buildings on adjacent properties to maintain the existing street wall patterns and design. The elements considered for the purposes of this standard shall include, but not be limited to, frequency and spacing of windows and doorways.
 - (2) The façade materials used are not grossly dissimilar to the materials typically found in the surrounding neighborhood, including, but not limited to, roof pitch, materials, architectural style and details and fenestration. Brick may be used as an acceptable building material in neighborhoods where it is not typically found.
 - (3) The roof pitch of the dwelling is comparable to or greater than the roof pitch of dwellings typically found in the surrounding neighborhood.
 - (4) If applicable, the dwelling has steps and/or a porch that is permanently attached to the ground and is compatible with the architecture of the building.
 - (5) The dwelling has a garage located no closer to the front property line than the garages of dwellings typically found in the surrounding neighborhood.
 - (6) The exterior colors of the dwelling are compatible with the colors of dwellings typically found in the surrounding neighborhood. Bright or contrasting colors may be used on trim only.
 - (7) The planning commission may waive the requirements of this Section if it finds that a proposed building design and the materials are in keeping with the intent of this section and the recommendations of the master plan.

(Ord. No. 1087, § 9.04, 3-8-10)

Sec. 24-185. - Building grades.

- (a) All building sites and parking lots shall be sloped so as to cause the flow of surface water to run away from the walls of buildings and structures located on the lot, without creating a nuisance to adjacent properties or crossing a public sidewalk.
- (b) Parking lots are required to provide storm water retention/detention and/or proper drainage, in compliance with the environmental performance standards ordinance and any applicable state and federal laws.
- (c) Final grades are to be approved by the building inspector or the city engineer.
- (d) A property owner may be required to obtain a certificate of grading and location of building within the city of ferndale to ensure compliance with the approved grading plan. These certificates shall be completed and certified by a registered civil engineer or land surveyor at the building owner's expense.

(Ord. No. 1087, § 9.05, 3-8-10)

Sec. 24-186. - Buildings to be moved.

Permits shall not be granted for the moving of buildings or structures to, from or within the city until the building inspector has inspected the building or structure and found it to be structurally safe and in compliance with section 24-184, Architectural compatibility and design guidelines, the current building code, zoning district requirements and other codes regulating public health, safety and general welfare.

(Ord. No. 1087, § 9.06, 3-8-10)

Sec. 24-187. - Essential services.

- (a) Essential services shall be permitted as authorized under any franchise in effect within the city, subject to regulation as provided in any state or federal law or in any city ordinance.
- (b) Buildings associated with essential services shall be screened from adjacent residential areas and shall be subject to Article XI, Site Plan Review.

(Ord. No. 1087, § 9.07, 3-8-10)

Sec. 24-188. - Excavations.

- (a) All excavations and dumping shall comply with the excavations and landfills ordinance.
- (b) The use of land for depositing or storing any garbage or liquid or recyclable materials is prohibited, except temporarily in conjunction with a building permit.

(Ord. No. 1087, § 9.08, 3-8-10)

Sec. 24-189. - Fences.

Residential yard fences shall be permitted in residential districts as authorized below:

- (1) Fences of not more than six feet in height may be constructed in residential districts within a minimum rear or side yard, but not within the front yard or front yard setback.
- (2) Fences shall be constructed of posts sunk in the soil at least 42 inches with boards, wire or other suitable material, equivalent to a height above the ground of not more than six feet.
- (3) Fences shall not extend toward the street, beyond the front building setback line. Fences in excess of four feet in height shall not be constructed in front of the rear line of either of the adjoining residential buildings.
- (4) All fences shall comply with the adopted edition of the International Property Maintenance Code. Fences surrounding swimming pools shall comply with the adopted Michigan Residential Building Code.

(Ord. No. 1087, § 9.09, 3-8-10)

Sec. 24-190. - Height exceptions.

- (a) Except as noted in (b) below, buildings erected, converted, enlarged or structurally altered shall not exceed the height limit established for the district in which the building is located.
- (b) The following structures may be erected above the height limits of this chapter, subject the additional requirements below: penthouse; mechanical equipment or roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building; fire or parapet walls; skylights; towers; steeples; stage lofts and screens; flagpoles; chimneys; water tanks; or similar structures.
- (c) None of the structures described in (b) above may be erected to exceed the building height by more than 15 feet. The aggregate area of all such structures, including parapet walls, shall not be greater than ten percent of the roof area of the building, except that skylights may occupy 25 percent of the gross roof area.
- (d) None of the structures described in (b) above shall be used for any residential, commercial or industrial purpose other than a use incidental to the principal use of the building.
- (e) Radio, television and other types of antennae towers may not exceed the height restrictions for the zoning district in which they are located.
- (f) Wind energy conversion systems (WECS), such as wind turbines, shall be allowed to exceed the height limits of the district in which they are located, subject to the regulations and limits set forth in section 24-163, Wind Energy conversion systems (WECS).

(Ord. No. 1087, § 9.10, 3-8-10)

Sec. 24-191. - Landscaping.

- (a) *Applicability.*
 - (1) Site plans must comply with the vegetation ordinance.
 - (2) Proposals to remove, relocate or substitute any protected tree shall comply with the tree protection provisions of the vegetation ordinance.
 - (3) The provisions of this section shall apply to any area proposed for development, redevelopment or expansion that is subject to site plan approval under Article XI, Site Plan Review.
 - (4) Each requirement of this section shall be met independently on a site. Landscaping for one of the requirements shall not be counted towards meeting other requirements of this chapter.
- (b) *Screening between residential and non-residential districts.*
 - (1) A greenbelt or screening wall in accordance with section 24-194, Screening shall be constructed along all boundaries between non-residential and residentially zoned property.

- (2) Where a M-1 and M-2 zoning district abuts a residentially zoned or used property, any outdoor storage areas, drive-through facilities or vehicle-related uses shall be screened in accordance with section 24-194, Screening.
 - (3) Where a street, alley or public right-of-way separates non-residential and residentially zoned property, the planning commission may eliminate the requirement for a screening wall or greenbelt if it finds that screening between the two uses would be ineffective or unnecessary.
- (c) *Off-street parking.*
- (1) Off-street parking lots, with the exception of parking structures, shall contain three trees for every 25 parking spaces within the boundaries of the parking lot, spaced throughout the lot.
 - (2) Where an off-street parking area, including loading and unloading areas, maneuvering lanes and stacking spaces, abuts a public right-of-way a hedge row, a three-foot tall brick wall or a three-foot tall wrought iron fence with a continuous evergreen hedge row shall be provided between the parking spaces and the street. The hedge row shall consist of evergreen or deciduous shrubs spaced two and a half feet on center.
 - (3) Where an off-street parking area, including loading and unloading areas, maneuvering lanes and stacking spaces, abuts a residential district or public alley, a screening wall in accordance with section 24-194, Screening shall be provided between the parking lot and residential district.
 - (4) Plants shall be installed so that, when mature, they do not obscure traffic signs, fire hydrants, lighting, drainage patterns on site or adjacent properties and do not obstruct vision for safety of ingress or egress.
 - (5) All landscaped areas shall be protected by a six-inch standard or rolled concrete curb, except where landscape islands are being utilized as part of a storm water detention or conveyance system.
 - (6) Parking structures shall provide one canopy or ornamental tree and four shrubs for every 30 linear feet of parking structure façade length that is adjacent to a public right-of-way.
- (d) *Greenbelts.*
- (1) Greenbelts shall contain one deciduous tree per each 30 linear feet, or fraction thereof, of frontage onto a public right-of-way.
 - (2) Greenbelts shall be improved with grass, flowers, ground covers, shrubs, trees or other live plant materials in compliance with the vegetation ordinance and may include up to 25 percent decorative pavers, decorative gravel or rocks.
 - (3) Where this chapter permits a greenbelt to be used in place of a screening wall, the greenbelt shall create a visual screen at least six feet in height, based upon reasonably anticipated growth over a period of three years, and have a minimum opacity of 80 percent.
 - (4) Driveways may pass through required greenbelts, but such driveways shall not be subtracted from the lineal dimension used to determine the minimum number of trees required by the vegetation ordinance.
- (e) *Detention and retention ponds.*
- (1) Detention and retention ponds shall comply with all applicable ordinances.
 - (2) Detention and retention ponds shall be incorporated with lawn areas, shrubs and trees to create a suitable appearance compatible with development on the property and on nearby properties. Landscaping shall be required on all areas disturbed by grading to establish detention/retention ponds.
 - (3) Where possible, ponds or basins shall be "free form" following the natural shape of the land to the greatest practical extent. Side slopes shall not exceed one foot vertical for every six feet of horizontal distance.
 - (4) One deciduous evergreen tree and ten shrubs or groupings of ornamental grasses shall be planted in a random pattern or in groupings for every 50 lineal feet of pond perimeter, measured along the top of the bank elevation. Required landscaping is not limited to the top of the pond bank, if the plant species is adapted to saturated soil conditions. Plantings within rain gardens, bio-retention swales or irrigation trench planters may be credited towards meeting these requirements.
- (f) *Residential districts.* At least 40 percent of the site of single or two family residential dwelling shall be unpaved, permeable open space. All such open space shall be landscaped with live plant materials or permeable hardscape and properly maintained.
- (g) *Modifications.* The planning commission may determine that existing landscaping or screening is adequate or that dimensional conditions unique to the parcel would prevent development of required landscaping. If such determination is made, the planning commission may waive, in whole or in part, the landscaping provisions of this section. Criteria which shall be used when considering a waiver shall include, but shall not be limited to:
- (1) Existing natural vegetation.
 - (2) Topography.
 - (3) Existing and proposed building placement.
 - (4) Building heights.
 - (5) Adjacent land uses.
 - (6) Distance between land uses.
 - (7) Dimensional conditions unique to the parcel.
 - (8) Traffic sight distances.

(Ord. No. 1087, § 9.11, 3-8-10)

Sec. 24-192. - Plats.

Land divisions and subdivisions must comply with Article XV, Land Division, and with the Land Division Act, MCL 560.101, et seq, as amended. Any proposed subdivision must first be approved by the planning commission and the city council.

(Ord. No. 1087, § 9.12, 3-8-10)

Sec. 24-193. - Projections into yards.

- (a) Certain features may project into the required yard setbacks in accordance with the following table.

Permitted Projections into Required Yards				
Projection	Front Yard	Rear Yard	Interior Side Yard	Corner Side Yard
ADA Ramps and Structures	Permitted in any yard provided the location meets ADA and other applicable ordinances			

Architectural Features	3 ft.	3 ft.	2 in. per 1 ft. of setback	
Awnings and Canopies	3 ft.	3 ft.	5 ft.	5 ft.
Balconies	5 ft. from any lot line unless denied by the publicright-of-way governing body			
Bay Windows	5 ft. from any lot line			
Chimneys	5 ft. from any lot line			
Eaves, Overhanging	3 ft.	5 ft.	5 ft.	3 ft.
Flagpoles	3 ft. from any lot line			
Gardens and Landscaping	Permitted in any yard			
Laundry Drying Equipment	Not permitted	5 ft. from any lot line		Not permitted
Light Standard, Ornamental	Permitted in any yard			
Mechanical Equipment such as HVAC	Not permitted	See (b) below	See (b) below	Not permitted
Paved Terraces andDecks	3 ft. from any lot line			
Unroofed Porches, Stoops, Stairways and Steps	0 ft.	10 ft.	5 ft.	3 ft.
Window Air Conditioning Units	Not permitted	3 ft.	3 ft.	Not permitted

- (b) Equipment used for central air conditioning, heating or water filtration purposes and installed outside of single-family or two-family dwellings and their attached structures shall be located in the rear yard. The community development department may allow units to be located within the side yard in those instances where such location does not adversely impact an abutting dwelling, conditioned upon screening of the equipment with appropriate landscaping to reasonably conceal the equipment from view.
- (c) Any walk, terrace, patio or other pavement or surface less than six inches above grade shall not be considered to be a structure and is permitted in any required yard. No more than 30 percent of the front yard area of any residentially zoned lot shall be paved.

(Ord. No. 1087, § 9.13, 3-8-10)

Sec. 24-194. - Screening.

Required screening walls shall comply with the following standards:

- (1) Screening walls shall conform to the schedule of wall heights provided below, as measured on the side of the proposed wall having the higher grade. In locations where a screening wall is not required, any wall voluntarily constructed must conform to the table below.

Minimum and Maximum Wall Heights		
Use or District	Side & Rear Yards (feet)	Front Yard (inches)
Industrial	8 - 10	32
Institutional	5 - 8	32
Commercial	5 - 8	32
OS	5 - 8	32
P-1	5	32

- (2) Screening walls and landscaping located near driveways and maneuvering lanes or within 15 feet of the front property line must also comply with the requirements of [section 24-197](#), Visibility at intersections.
- (3) Any land located between a screening wall and an adjacent lot line shall be landscaped.
- (4) Screening walls shall be constructed of face brick; poured-in-place simulated face brick; precast brick face panels having simulated wood, brick or stone texture; or similar materials as approved by the planning commission. One-sided decorative wall materials shall be installed with the decorative side facing the adjacent property or street.
- (5) Concrete curbing shall be installed as necessary to prevent vehicles from striking a required screening wall. The use of bumper or wheel blocks is prohibited.
- (6) Screening walls shall not encroach into the front, side or rear yard setback.

- (7) Screening walls shall be located on the lot line except where they would be located above and parallel to an underground utility easement, in which case they shall be located at the nearest edge of the easement.
- (8) Screening walls shall be kept sound, free of deterioration and maintained in a proper condition.
- (9) The planning commission may waive or modify these requirements under the following conditions:
 - a. The requirement for a screening wall may be waived where the developed portion of the non-residential site, including all buildings, pavement, storage and structures, will be setback more than 200 feet from the residential district.
 - b. Where conditions are such that a more effective and harmonious development with adjacent land uses would result, the planning commission may allow or require an earth berm and evergreen plantings to serve as the complete and continuous screening wall, provided the berm and evergreen planting are maintained.
- (10) Equipment screening. With the exception of single and two-family residential, any mechanical equipment or utilities and similar equipment, including water and gas meters, elevator housings, stairways, tanks, heating, ventilation and air conditioning equipment, exhaust pipes or stacks, satellite dishes and other telecommunications receiving devices and other similar equipment, shall comply with the following standards:
 - a. All roof-mounted equipment shall be screened by parapet walls or a pitched roof integrated into the architectural design of the building of sufficient height to screen rooftop equipment and provide sound attenuation. The location, height and screening methods shall be shown on the site plan.
 - b. Roof-mounted equipment shall not exceed a height of ten feet above the surrounding roof surface.
 - c. Mechanical equipment and utilities located on or around any non-residential building shall be screened by decorative walls that are compatible with the material used on the building or landscaping. The height of the wall shall be sufficient to fully screen the mechanical equipment.
 - d. Screening materials for ground-mounted mechanical equipment and utilities shall include a solid wall, fence, plantings, berms and/or other decorative features compatible with the materials used on the main building.
 - e. Mechanical equipment may not be located within the required yard setback, except as provided in section 24-193. Projections into required yards.

(Ord. No. 1087, § 9.14, 3-8-10)

Sec. 24-195. - Signs.

- (a) Signs must conform to the sign ordinance and be presented to the planning commission as part of any required site plan review.
- (b) Businesses in the downtown development district must comply with the appearance review ordinance.

(Ord. No. 1087, § 9.15, 3-8-10)

Sec. 24-196. - Swimming, wading and landscape pools and ponds.

All pools and ponds must conform to the pool and pond ordinance.

(Ord. No. 1087, § 9.16, 3-8-10)

Sec. 24-197. - Visibility at intersections.

- (a) Fences, walls, structures or plantings shall not be erected, established or maintained on any lot that will obstruct the view of drivers in vehicles approaching the intersection adjacent to a corner lot or a driveway on any lot.
- (b) Fences, walls, structures or plantings shall not be permitted within 15 feet of an intersection of two streets or of a driveway or alley and a street. Shrubbery under 32 inches in height and trees with branches no lower than eight feet above street level are permitted.
- (c) In the case of corner lots, a triangular area shall be kept unobstructed at each intersection. That triangular area shall be delineated by the lot lines and a line connecting them at points ten feet from the corner, or in the case of a rounded corner, from the intersection of the lot lines extended.

(Ord. No. 1087, § 9.17, 3-8-10)

Sec. 24-198. - Waste receptacles.

Waste receptacles, including dumpsters and compactors, shall be designed, constructed and maintained according to the standards of this section. A change in waste receptacle location or size shall require modification to the enclosure, as warranted by this section.

- (1) The regulations of this section shall apply to all uses that have their refuse removal needs serviced by collective refuse containers in multiple-family residential and non-residential districts.
- (2) The planning commission may waive the requirement for a waste receptacle enclosure for businesses that store all waste material indoors or other uses that provide alternate means of handling waste disposal.
- (3) Waste receptacles shall be located in the rear yard or non-required side yard unless otherwise approved by the planning commission.
- (4) For non-residential uses adjoining a residential district, the waste receptacle shall be as far as practical—and in no case be less than 20 feet—from any adjacent residential district.
- (5) Waste receptacles shall be easily accessed by refuse vehicles without potential to damage automobiles parked in designated parking spaces or interfere with the normal movement of vehicles on or off the site.
- (6) All commercial and multiple-family outdoor trash disposal and recycling containers shall be screened on all sides with a masonry screening wall and solid gate. The screen and gate shall be at least as high as the receptacles, but no less than six feet in height. In the M-1 and M-2 districts, a masonry wall shall not be required if the area is otherwise screened.
- (7) Receptacles shall be consolidated to minimize the number of collection sites. Insofar as possible, containers shall be located away from the public view and shall be situated to avoid causing a nuisance to the occupants of nearby buildings.
- (8) Concrete pads and approaches at least six inches thick in depth and protective bollards shall be provided for trash and recycling containers.
- (9) For storage of recycling materials, the enclosure area and pad size shall be increased to amply accommodate the extra materials and their containers.

(Ord. No. 1087, § 9.18, 3-8-10)

Secs. 24-199—24-220. - Reserved.

ARTICLE X. - OFF-STREET PARKING AND LOADING

Sec. 24-221. - Intent.

The purpose of this article is to ensure the provision of off-street parking facilities that are sufficient in number, adequately sized and properly designed to meet the range of parking needs and demands that are associated with land uses now in place in the city or with land uses allowed by this chapter.

(Ord. No. 1087, § 10.01, 3-8-10)

Sec. 24-222. - General provisions.

- (a) *Applicability.* For all buildings and uses established after the effective date of the ordinance from which this chapter derives, off-street parking shall be provided as required by this article.
- (1) Whenever use of a building or lot is changed to another classification of use, off-street parking facilities shall be provided as required by this article.
 - (2) If the intensity of use of any building or lot is increased through the addition of floor area, increase in seating capacity or other means, additional off-street parking shall be provided for such increase in intensity of use.
 - (3) Off-street parking facilities in existence on the effective date of the ordinance from which this article derives shall not be reduced below the requirements of this article.
 - (4) An area designated as required off-street parking shall not be changed to another use unless equal facilities are provided elsewhere in accordance with the provisions of this article.
- (b) *Location.* The required off-street parking shall be located on the same lot or site as the uses that it is intended to serve, except as provided for in subsection (g), Collective/shared parking provisions.
- (c) *Residential parking.*
- (1) Residential parking areas shall be located on hard or pervious concrete, asphalt or permeable/grass pavers. Lawn and yard areas, other than designated parking areas, shall not be utilized for off-street parking.
 - (2) A minimum one-foot wide lawn or landscape strip shall be required between the edge of the parking area and all lot lines to provide adequate room for drainage, snow storage and privacy screening.
 - (3) Single and two-family dwellings.
 - a. Parking areas shall consist of a parking strip, driveway, garage or combination thereof and shall be located on the premises they are intended to serve.
 - b. Parking areas shall not exceed 20 percent of the lot area and the pavement shall not extend into or include any part of that area enclosed by the front lot line, the front line of the principal building and the extended side lines of the principal building.
 - c. One curb cut and approach is permitted per parcel.
 - d. Front yard circular or horseshoe drives are prohibited.
 - e. Residential driveways and garages may not be used for parking or storage of any vehicle with a payload greater than one and one-half tons.
 - (4) Recreational vehicles. In all residential districts, a recreational vehicle may be parked or stored subject to the following conditions:
 - a. No recreational vehicle parked or stored on single-family residential property shall exceed 30 feet in length or ten feet in width.
 - b. Motor homes may be parked on a single- or two-family lot for a maximum of two weeks in any six-month period. During that period only, a motor or mobile home may be occupied and temporarily connected to electricity.
 - c. Recreational vehicles, other than motor homes, may be parked or stored within the side or rear yard, but no closer than three feet from any side or rear lot line.
 - d. Recreational vehicles must be parked or stored on a hard-surface consisting of asphalt, concrete or other material approved by the building inspector.
 - e. No recreational vehicle shall have fixed connections to electricity, water, gas or sanitary sewer facilities. Temporary connections for recharging batteries and filling water tanks shall be permitted.
 - f. All recreational vehicles must be kept in good repair and carry a current license and registration.
 - g. No recreational vehicle shall be parked on a public street, alley or right-of-way, except as required for loading and unloading purposes for no more than twenty-four (24) hours.
 - h. Outdoor parking or storage of no more than two recreational vehicles, other than motor homes, is permitted on a single or two-family residential lot. Recreational vehicles may not be parked or stored outdoors in the R-3 and R-4 Districts.
- (d) *Use limitations.*
- (1) It shall be unlawful for any person, firm or corporation to use private property for vehicle parking without the express consent, authorization or ratification of the owner, holder, occupant, lessee, agent or trustee of the property.
 - (2) Off-street parking areas are intended only for temporary vehicle parking for public safety by keeping parked cars off the streets. Except when land is used as storage in compliance with section 24-162, Vehicle storage facilities, or connection with the business of a repair or service garage, use of parking areas or open land is not permitted for the storage or parking of wrecked or junked cars or for creating a junk yard or nuisance in the area.
 - (3) Loading spaces and parking spaces are subject to separate requirements and shall be considered separate components on a proposed site plan. In no case shall one component be construed as meeting the requirements of the other required components.
 - (4) It shall be unlawful to use a parking lot or open area for the storage of merchandise, materials, trucks, trailers, construction trailers, recreational vehicles and equipment, except as otherwise provided for in this chapter. This provision shall not apply to areas designated for fleet and company vehicles provided they are located in the side and rear yards of the business they serve.
 - (5) It shall be unlawful to use a parking lot or open area to park any vehicle for the purpose of displaying vehicles for sale, except in an approved vehicle dealership or as provided in Article VIII, Use Regulations.
 - (6) It shall be unlawful to use a parking lot or open area to repair any vehicle.
 - (7) Commercial vehicle storage facilities must comply with section 24-157, Self-storage facilities. All other vehicle storage must comply with the following standards:
 - a. In all districts, commercial vehicles or power driven construction equipment shall not be parked or stored outdoors for a period of more than 48 hours except in an off-street loading and unloading area as defined in section 24-225, Off-street loading and unloading requirements or in an approved outdoor vehicle storage facility in compliance with section 24-162, Vehicle storage facilities.
 - b. These requirements shall not apply to contractor's storage yards, which are regulated by section 24-144, Contractor's offices and storage yards, nor to contractor's trailers and equipment situated on a construction site, provided that a temporary permit, renewable every 90 days, shall first be obtained from the community development department.
 - c. Contractor's trailers must be removed within 6) days after the issuance of the certificate of occupancy.
 - (8) Storage or parking of any vehicle, machinery, or equipment shall not be permitted on vacant lots or parcels. Except as otherwise permitted by this chapter, junk vehicles, machinery or equipment may not be parked or stored outdoors at any time.

(Ord. No. 1087, § 10.02, 3-8-10)

Sec. 24-223. - Off-street parking requirements.

- (a) The number of required off-street parking spaces shall be determined in accordance with the table on the following pages.
- (b) Required parking shall not include space required for loading and unloading or stacking spaces for drive-through facilities.
- (c) *Units and methods of measurement.* For the purpose of determining off-street parking requirements, the following units of measurement shall apply:
- (1) *Floor area.* Floor area shall mean 80 percent of the gross floor area.
 - (2) *Fractional requirements.* When units or measurements determining the number of required parking spaces result in a fractional space, one additional parking space shall be provided.
 - (3) *Uses not Listed.* For uses not specifically listed in the Parking Requirements Table the required parking shall be in accordance with that of a similar use as determined by the community development department, based on documentation regarding the specific parking needs of the use.
 - (4) *Bench seating.* In calculating bench seating for places of assembly, each 24 inches of bench, pew or similar seating facilities shall be counted as one seat, except that where specifications and plans filed with the community development department specify a certain seating capacity, they may be used as the basis for required parking space.
 - (5) *Employees.* Where the number of spaces required is based on the number of employees, calculations shall be based upon the maximum number of employees likely to be on the premises during the peak shift.
 - (6) *Compliance with codes.* Where parking requirements are based upon maximum seating or occupancy capacity, the capacity shall be as determined by the building and fire codes.

Parking Requirements	
Use	Number of Required Parking Spaces
Residential:	
Single- or two-family dwellings	2 per dwelling unit
Multiple-family dwellings	1.5 per dwelling unit, plus 1 per each 10 dwelling units for guest parking
Senior housing	1 per dwelling unit
Upper level residential units in non-residential districts	1 per dwelling unit
Health Care Facilities:	
Assisted living facilities	1 per employee per shift, plus 1 for every 10 dwelling units
Hospitals	1 per 4 beds
Medical, dental and physical therapy offices, clinics and medical and dental laboratories and similar uses	1 per each 250 sq. ft. of floor area
State licensed adult foster care facilities	1 per 4 clients, plus 1 per employee
State licensed day care centers	1 per 350 sq. ft. of floor area, plus 1 per employee per shift
Entertainment and Recreational	
Amusement arcades	1 per each 4 occupants
Billiard and pool halls	1 per each 3 occupants
Bowling alleys	1 per each bowling lane
Health, fitness and exercise clubs	1 per each 200 sq. ft. of floor area
Miniature golf courses	2 per each hole
Private clubs	1 per each 3 occupants
Roller and ice skating rinks and indoor court game facilities	1 per each 4 occupants
Theaters	1 per each 3 occupants
Service, Retail and Office:	
Art, music, dance, craft, ceramic, glass, cooking and similar schools and studios	1 per each 2 occupants
Banks, credit unions, savings and loans and similar uses	1 per each 300 sq. ft. of floor area

Business and professional offices	1 per each 300 sq. ft. of floor area
Cemeteries	2 per employee per shift
Drive-through bank and retail facilities (see also restaurants, with drive-through facilities)	4 stacking spaces per window,plus spaces required for principal use
Dry cleaning facilities	1 per each 500 sq. ft. of floor area
Funeral homes or mortuaries	1 per each 100 sq. ft. of viewing area
Laundromats	1 per each 2 washing machines,plus 1 per each employee per shift
Lodging facilities	1 per each guest bedroom
Open air businesses	1 per each 500 sq. ft. of land area being used for retail sales, uses and services
Personal service establishments (including: barber/beauty shops, hair, nail & skin care services, tanning salons)	1 per 300 sq. ft. of useable floor area or 2.5 per barber or beautician's chair/station, whichever is greater
Radio and television studios	1 per each 500 sq. ft. of floor area
Research and development centers	1 per each 300 sq. ft. of office area,plus 1 per each 1,000 sq. ft. of lab/storage area or 1 per each employee at maximum shift capacity
Restaurants, carryout (with limited seating for eating on premises)	6 per service or counter station,plus 1 per each employee
Restaurants, with drive-through facilities	1 per 2 employees,plus 1 per 2 seats, plus 1 space per 30 sq. ft. of building floor area within the waiting areaplus 10 stacking spaces per drive-through window
Restaurants, standard	1 per each 100 sq. ft. of floor area
Retail stores except as otherwise specified herein	1 per each 250 sq. ft. of floor area
Self-storage facilities	4 adjacent to the business office,plus 1 per each 200 storage cubicles
Service and repair establishments (photographic studios; barber and beauty shops; watch, clothing and shoe repair shops; dressmaking, catering, interior decorating, lock smith, small household appliances, musical instruments, bicycles, furniture, eyeglasses, office or business machines and similar establishments)	1 per each 800 sq. ft. of floor area
Shops of building trades, caterers, blue printers and similar services	1 per each 800 sq. ft. of floor area
Vehicle dealerships	1 per each 500 sq. ft. of showroom floor area,plus 1 per each service stall
Vehicle filling and service stations	1 per each employee,plus spaces required for other uses within the station, such as the retail floor area, carryout restaurants or automotive repair stalls, subtracted by one half space for each automobile fueling position
Vehicle repair, major and minor	1 per each service stall,plus 1 per each employee
Vehicle wash, full-service	4,plus 10 stacking spaces per washing stall,plus a minimum 20 foot long drying lane at the exit of the wash
Vehicle wash, self-service (coin operated)	4,plus 1 stacking space per washing stall
Veterinary offices and hospitals, groomers	1 per each 400 sq. ft. of floor area
Video stores and rental establishments	1 per each 400 sq. ft. of floor area
Wholesale sales	1 per each 1,000 sq. ft. of floor area
Institutional Uses:	

Libraries and museums	1 per each 350 sq. ft. of floor area, excluding area devoted to stacks or archival storage
Educational institutions: senior high, business, technical, trade and vocational schools	1 per employee, plus 1 per 10 students
Educational institutions: elementary or junior high schools	1 per employee, plus 1 per 100 students
Institutions for religious worship and other places of general assembly	1 per each 3 seats in the main place of assembly or 6 ft. of benches/pews
Public buildings (governmental offices, police and fire stations and community centers, but not including service or storage yards)	1 per each 250 sq. ft. of floor area
Industrial Uses:	
Contractor's storage yards	1 per each 300 sq. ft. of office area, plus either 1 per each 1,000 sq. ft. of shop/storage area (exterior or interior), or 1 per employee at maximum shift capacity
Manufacturing, processing and assembly, and reuse facilities	1 per each 300 sq. ft. of office area, plus either 1 per each 1,000 sq. ft. of shop/storage area, or 1 per each employee at maximum shift capacity
Recycling facilities	
Sheet metal fabrication, pattern making shops, tool and die shops and similar uses	
Vehicle storage facilities	1 per each 100 leaseable spaces
Warehouses, distribution centers and freight yards	1 per each 300 sq. ft. of office area, plus 1 per each 2,000 sq. ft. of shop/storage area, or 1 per each employee at maximum shift capacity

(d) *Barrier free parking.*

- (1) Within each parking lot, signed and marked barrier free spaces shall be provided in accordance with the Michigan Department of Labor, Construction Code Commission, Barrier Free Design Division.
- (2) Barrier free spaces shall be located as close as possible to building entrances and walkways.

(e) *Bicycle facilities.* All developments shall be designed to accommodate bicycle travel, including bike racks. All parking structures and parking lots shall provide sufficient bike racks based on a minimum of one bike for every ten automobiles or one bike for every 3,000 square feet of building floor area, whichever is greater. The use of enclosed bicycle storage and/or shared facilities is encouraged.(f) *Collective/shared parking provisions.* Nothing in this article shall be construed to prevent collective provisions for off-street parking for two or more buildings or uses, provided that:

- (1) The total number of spaces provided collectively shall not be less than the sum of spaces required for each separate use as required in this section. However, the planning commission may reduce the total number of spaces by up to 50 percent where it can be determined that one or more of the factors listed in subsection (h) apply.
- (2) Written easements that provide for continued use and maintenance of the parking shall be filed with the Oakland County Register of Deeds and the City. Such agreement shall include provisions to address any changes in use or intensity.
- (3) The collective off-street parking shall not be located farther than 500 feet from the buildings or uses being served.

(g) *Reduction of parking requirements.* The planning commission may reduce the parking requirements based upon a finding that there will be a lower demand for parking due to one or more of the following factors:

- (1) Shared parking by multiple uses with peak parking demands during differing times of the day or days of the week.
- (2) Convenient municipal off-street parking or on-street spaces are located within 500 feet that have the capacity to handle additional parking.
- (3) Expectation of walk-in business due to sidewalk connections to adjacent residential neighborhoods or employment centers. The site design incorporates pedestrian connections to the site and on-site pedestrian circulation providing safe and convenient access to the building entrance.
- (4) Availability of other forms of travel such as transit. The planning commission may require that the site design incorporate transit stops, pedestrian connections to nearby transit stops or enhanced bicycle parking facilities.
- (5) The applicant has provided a parking study, conducted by a qualified traffic engineer, that demonstrates that another standard would be more appropriate based on actual number of employees, expected level of customer traffic or actual counts at a similar establishment. The planning commission may require a parking study to document that any one of the criteria (1) through (4) above would be met.

(h) *Maximum allowed parking.*

- (1) In order to minimize excessive areas of pavement which reduce aesthetic standards and contribute to high rates of storm water runoff, exceeding the minimum parking space requirements by more than ten percent shall only be allowed with approval by the planning commission.
- (2) In granting such additional space, the planning commission shall determine that such parking will be required, based on documented evidence, to accommodate the use on a typical day.

- (3) The planning commission may require that additional spaces be constructed with alternative paving materials, such as permeable/grass pavers or pervious concrete.
- (i) *Banked parking.*
- (1) Where a reduction in the number of parking spaces is not warranted but an applicant demonstrates that the parking requirements for a proposed use would be excessive, the planning commission may allow the applicant to defer some of the parking. The site plan shall designate portions of the site for future construction of the required parking spaces, which shall be maintained in a landscaped appearance and not occupy required greenbelts or parking lot setbacks or be used for any other purpose. Landscaping, such as parking lot trees that would otherwise be required for the banked parking, shall be installed in the area of the banked parking.
- (2) The banked parking shall be required to meet chapter requirements if constructed. Construction of the deferred parking area to add parking spaces may be initiated by the owner or required by the community development department, based on parking needs or observation, and shall require administrative approval of an amended site plan. The community development department may request a performance guarantee to cover the cost of developing the deferred parking lot.
- (j) *CBD parking exemption.*
- (1) Buildings and uses located within the CBD zoning district shall be exempt from providing off-street parking, loading and unloading areas and stacking spaces, except as required for upper level residential units in [section 24-159](#), Upper level residential.
- (2) New buildings must provide parking in compliance with the Table in [section 24-223](#)
- (3) In no case shall a building or use in the CBD be expanded to remove off-street parking, loading and unloading areas and stacking spaces in existence on the effective date of the ordinance from which this chapter derives, unless an equivalent number of spaces is provided within 500 feet.
- (k) *Payment in lieu of parking in the CBD.*
- (1) In lieu of physically providing some or all of the off-street parking spaces required in subsection (k) of this section, city council may permit an applicant to pay a one-time fee to the city in lieu of one or more of the required parking spaces upon a finding and determination by council.
- (2) City council shall take into account the current inventory of public parking and future needs of CBD parking, the plan for parking by the applicant necessitated by cash payments in lieu of parking and the amount of cash that will be contributed in lieu of parking, considering the benefit to the public and to private owners from such parking which would subsequently be provided by the city. In implementing such policy, city council shall assure that the future needs for parking in the CBD shall be adequately met by such cash payments in lieu of parking. Council may approve, deny, or approve in part an application to provide payment in lieu of off-street parking. Where existing parking spaces are proposed for elimination, the payment shall be calculated using the existing number of parking spaces proposed for removal regardless of the spaces' actual configuration, dimensions or compliance with the parking regulations of this chapter.
- (3) The one-time fee shall be established and reviewed annually by council. In setting the fee, council shall take into consideration the cost of constructing a new off-street parking space in a municipal facility, including the cost of land acquisition, the cost of engineering, financing and constructing the facility and other appropriate considerations.
- (4) Payments and fees collected and interest earned shall be placed in a fund established by city council to be used for acquisition, development and maintenance of municipally owned or leased off-street parking facilities for the benefit of the CBD.
- (5) The city clerk shall maintain records of the fees and parcels involved together with any additional records required or necessary to administer this program.

(Ord. No. 1087, § 10.03, 3-8-10)

Sec. 24-224. - Parking design.

Whenever the off-street parking requirements in this section require the building of an off-street parking facility, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following regulations.

- (1) *Dimensional requirements.*
- a. All parking lots shall be striped and maintained showing individual parking bays in accordance with the Off-Street Parking Dimensional Requirements Table.

Off-Street Parking Dimensional Requirements				
Parking Pattern	Parking Space		Maneuvering Lane Width	
	Width	Length	One Way	Two Way
0° (Parallel)	9 ft.	24 ft.	12 ft. ¹	20 ft.
30° to 53°	9 ft.	18 ft.	12 ft.	24 ft.
54° to 74°	9 ft.	18 ft.	15 ft.	24 ft.
75° to 90°	9 ft.	18 ft.	24 ft.	24 ft.

¹May be required to be increased in instances where fire or safety apparatus is required to use maneuvering lanes

- b. Angled parking between these ranges shall be measured to the nearest degree.
- c. Space length may be reduced by up to two feet if an unobstructed overhang of not less than two feet is provided, such as a landscaped area or sidewalk. A sidewalk shall have a minimum width of seven feet where abutting a parking area.
- d. Up to 20 percent of the parking spaces may be designated as small car spaces which shall be at least eight feet wide and 16 feet long and clearly signed "For Small Cars Only."
- (2) *Access.*
- a. All spaces shall be provided with adequate access by means of maneuvering lanes.

- b. Adequate ingress and egress to all off-street parking areas shall be provided by means of limited and clearly defined driveways.
 - c. Ingress and egress driveways shall be located a minimum of 20 feet from any corner at the intersection of the property lines and shall not be more than 25 feet wide.
 - d. Driveways shall be located a minimum of 50 feet apart as measured from the edge of the driveway along the property line.
 - e. A maximum of two driveways per street frontage shall be allowed.
 - f. Parking lots shall be designed to prevent vehicles from backing into the street or requiring use of the street for maneuvering between parking rows.
- (3) *Construction and maintenance.* The construction of any parking lot shall require approval of a site plan in accordance with Article XI, Site Plan Review. Construction shall be completed and approved by the community development department before issuance of a certificate of occupancy.
- a. All parking lots and vehicle and equipment storage areas shall be paved with an asphalt or concrete binder. Alternative paving materials, such as permeable/grass pavers, may be approved based upon the review and recommendation of the city engineer. For storage areas, the city engineer may approve a substitute for hard-surfaced pavement upon a determination that there are no adverse effects.
 - b. Bumper blocks shall not be used in parking lots except where the planning commission determines they are necessary, or in the case of administrative approvals, the community development department.
 - c. Surface water from parking areas shall be detained on site.
 - d. A six-inch concrete curb, or alternative as determined by the planning commission, shall be provided around all sides of the parking lot to protect landscaped areas, sidewalks, buildings or adjacent property from vehicles that might otherwise extend beyond the edge of the parking lot. Curb openings are allowed for storm water drainage, as recommended by the city engineer. Plantings shall be set back two (2) feet from curbs to allow for bumper overhang.
 - e. Off-street parking areas shall be landscaped in accordance with the requirements of section 24-191, Landscaping. Any end islands shall also comply with section 14-197, Visibility at intersections and ASHTO standards, as amended.
 - f. Off-street parking areas shall be illuminated in accordance with the requirements of environmental performance standards ordinance.
 - g. Fire lanes shall be designated on the site and posted with signage prior to occupancy. Vehicle circulation shall meet turning radius requirements set by the fire department.
 - h. All parking lots shall be maintained free of trash and debris. Surface, curbing, light fixtures and signage shall be maintained in good condition.
- (4) *Stacking spaces for drive-through facilities.* All businesses which provide drive-through facilities for serving customers in their vehicles shall provide adequate off-street stacking spaces and lanes which meet the following requirements:
- a. Each stacking space shall measure nine feet in width and 20 feet in length. Each drive-through lane shall be a minimum of 12 feet in width.
 - b. Clear identification and delineation between the drive-through lanes and stacking spaces and off-street parking areas shall be provided. Drive-through facilities shall be designed in a manner which promotes pedestrian and vehicular safety. Driveways, maneuvering lanes and pedestrian walkways shall not intersect stacking spaces and lanes.
 - c. For all drive-through facilities which have a single stacking lane, an escape lane shall be provided to allow other vehicles to pass those waiting to be served.
 - d. Public streets, alleys and sidewalks shall not be used as stacking spaces.
 - e. The number of stacking spaces required per service lane shall be determined in accordance with the table in the following page. When a use is not specifically mentioned, the requirements for a similar use shall apply.

Stacking Space Requirements	
Use	Stacking Spaces Per Service Lane
Minor auto repair	3
Pharmacy	3
Banks and credit unions	6
Photo service	4
Dry-cleaning	4
Drive-through restaurants	6
Auto wash	In compliance with the auto wash ordinance, 992, Article IX, <u>Section 7-193</u> , as amended

(Ord. No. 1087, § 10.04, 3-8-10)

Sec. 24-225. - Off-street loading and unloading requirements.

- (a) *When required.* Adequate space for loading and unloading shall be provided on the same lot as any building erected or altered for any use which involves receiving trucks, delivery vehicles, material or merchandise and whenever else it is required by this chapter. The planning commission may permit central loading areas to be shared by multiple uses.
- (b) *Size.* Loading and unloading areas, unless completely and adequately provided for within a building, shall measure no less than ten feet by 50 feet, with 14-foot height clearance, and shall be provided in accordance with the following table. The planning commission may modify this requirement for uses that will involve smaller delivery trucks.

Off-Street Loading Requirements	
Gross Floor Area of Building (sq ft)	Required Loading and Unloading Spaces
Office Uses:	
Less than 10,000	0
10,001—50,000	1
Greater than 50,000	2
Commercial and Industrial Uses:	
Less than 5,000	0
5,001—20,000	1
20,001—50,000	2
50,001—100,000	3
Greater than 100,000	4

- (c) *Location.* Off-street loading and unloading and stacking spaces, including maneuvering lanes, shall not be located within the front greenbelt or yard. Off-street loading and unloading shall be permitted within the required side or rear setbacks, provided that a minimum of ten-foot setback is maintained between off-street loading and unloading and the abutting side and rear lot lines. In instances where a public alley is the only means for loading and unloading, no setbacks shall be required.
- (d) *Required greenbelts, setbacks and screening.* Off-street loading and unloading which abuts residentially zoned or used property shall be screened in accordance with [section 24-191](#) Landscaping.
- (e) *Calculation.* Off-street loading and unloading spaces shall not be counted as off-street parking spaces or stacking spaces nor shall they conflict with the maneuvering lanes required to access off-street parking areas.

(Ord. No. 1087, § 10.05, 3-8-10)

Secs. 24-226—24-240. - Reserved.

ARTICLE XI. - SITE PLAN REVIEW

Sec. 24-241. - Applicability.

- (a) Prior to the establishment of a use, addition to an existing use, or the erection of any building, a site plan shall be submitted to and approved by the city in accordance with the procedures of this article, and the development requirements of this and other applicable ordinances.
- (b) The city shall not issue a building permit until a site plan, where required, has been approved and is in effect. Obtaining site plan approval does not guarantee issuance of a building permit.
- (c) Except as otherwise provided in this chapter, no grading, removal of trees or other vegetation, landfilling, installation of utilities, or other construction improvements shall commence for any development which requires site plan approval until a site plan is approved and is in effect.
- (d) Site plan review shall be required for the activities or uses listed in the table below. The city council, planning commission or community development department (CDD) shall have the authority to review and to approve, approve with conditions, or deny site plan applications as provided in this chapter, in accordance with the table below. Any decision made by the city council shall be based upon recommendation by the planning commission. If all site plan application requirements are met, the site plan shall be approved, approved with conditions, or denied within 90 days of receipt of the completed application.

Uses Requiring Site Plan Review			
Activity/Use	Planning Commission	City Council	CDD
New Construction			
Single-family or two-family dwelling (up to 3 units)	—	—	Approve
Single-family or two-family dwelling (over 3 units, on platted lots)	Approve	—	—
Subdivisions (requiring land divisions)	Recommend	Approve	—
Multiple-family dwellings	Approve	—	—

Any non-residential building, structure or use	Approve	—	—
Public utility or essential service buildings or structures, telephone exchange buildings, electric transformer stations & substations, gas regulator stations, natural gas distribution or storage facilities	Approve	—	—
Special land use	Recommend	Approve	—
Planned unit development (PUDs)	Recommend	Approve	—
Expansion/Modification to Existing Building			
Expansion of a single-family or two-family dwelling	—	—	Approve
Expansion of a multiple-family building or development	Approve	—	—
Alteration or expansion involving less than 10% of the floor area of an existing structure or is no greater than 3,000 sq. ft. whichever is less, provided that the alteration or expansion does not affect parking requirements	—	—	Approve
Alteration or expansion involving more than 10% of the floor area of an existing structure or is greater than 3,000 sq. ft. whichever is less, or any alteration or expansion that affects parking requirements	Approve	—	—
Expansion/intensification of a special land use	Recommend	Approve	—
Change In Use			
Change of land or building to a more intensive use, as determined by the director, that may involve substantial change in parking, traffic flow, hours of operation, public services, effluent discharge, or substantial alteration of the physical character of the site	Approve	—	—
Reuse of an existing building where no building expansion is proposed, if the director determines the new use is similar or less intense in terms of parking, traffic generation, drainage, utility needs, noise, aesthetics & other external effects	—	—	Approve
Change in use to a special land use	Recommend	Approve	—
Temporary uses, buildings, and structures	—	—	Approve
Accessory Structures and Site Improvements			
Accessory structures/buildings	—	—	Approve
Change in building height that does not add floor area	—	—	Approve
Infrastructure and paving improvements including sidewalks and pathways	—	—	Approve
Outdoor storage, sales and display	Approve	—	—
Non-structural architectural design changes to non-residential uses	—	—	Approve
New off-street parking lot	Approve	—	—
Modification, resurfacing or expansion of existing off-street parking, stacking spaces or loading and unloading areas less than 10%	—	—	Approve
Modification, resurfacing or expansion of existing off-street parking, stacking spaces or loading and unloading areas more than 10%	Approve	—	—
Construction, relocation or erection of signs, screening walls, fences, walls, waste receptacles, sidewalks, antennas, lights, poles, cooling/heating or other mechanical equipment	—	—	Approve
Modifications to comply with accessibility requirements	—	—	Approve

- (1) The director shall have discretion to forward any site plan submitted for administrative approval to the planning commission for final determination.
- (2) If administrative approval is denied, the applicant may submit the site plan to the planning commission.

(Ord. No. 1087, § 11.01, 3-8-10)

Sec. 24-242. - Application.

- (a) Application. An applicant shall submit a request for site plan review by filing an application with the director, consisting of the following:
 - (1) Four copies of a site plan, one electronic file as well as other required data and exhibits (additional copies shall be provided upon request). Upon determination by the CD department that the site plan application is complete, 12 copies, plus one electronic copy of the revised site plan shall be provided, if requested. All required materials shall be submitted at least three weeks prior to be placed on a planning commission agenda.
 - (2) Review fee.
 - (3) Completed application form.
- (b) The community development department, upon receipt of a site plan application and supporting data, shall:
 - (1) Review the site plan application for completeness.
 - (2) Forward the site plan application and all supporting data to the department of public works, the fire department and the police department who shall review the materials and return written comments to the community development department with any written comments.
 - (3) Transmit the completed site plan application and all supporting data to the planning commission prior to its meeting.
 - (4) Notify the applicant in writing if the site plan is incomplete. Incomplete applications and site plans may not be submitted to the planning commission.
- (c) Information required. A site plan shall contain all of the materials and information listed below prior to its submission to the planning commission for review, unless deemed unnecessary by the community development department:
 - (1) *Application.*
 - a. Project title and street address.
 - b. A written project description including proposed uses of buildings and site improvements.
 - c. The names, addresses and telephone numbers of all proprietors, applicants, architects, engineers and owners.
 - d. Written proof of ownership or option on subject property. If the applicant is not the owner, a written explanation of their legal relationship shall be submitted.
 - e. Proposed time of project completion and phasing schedule.
 - (2) *Site plan.* Site plans shall consist of an overall plan for the entire development and must be drawn to a scale of no less than 1" = 30'. Sites greater than three acres shall be drawn at a scale not less than 1" = 50'. The director may also request copies of all plans and drawings in a reduced size format. Site plans must include:
 - a. Date of preparation of drawings and revisions.
 - b. Location map drawn at a minimum scale of 1" = 2,000' with north point indicated.
 - c. The seal of the architect, engineer, surveyor, or landscape architect.
 - d. Legal and common description of the site with existing and proposed lot lines, and dimensions.
 - e. Centerline, existing, and proposed right-of-way lines of any streets or alleys, and proposed and existing easements.
 - f. Zoning classification of petitioner's parcel and all abutting parcels.
 - g. Gross and net buildable area.
 - h. Percentage of lot coverage including existing buildings.
 - i. Sign locations, illumination and size. Refer to the sign ordinance.
 - j. Other pertinent features, including entrance details, decks, porches, fences, flag poles, or other structures.
 - k. All permanent exterior lighting locations, including ornamental lighting, type of fixtures, footcandles, mounting height and method of shielding in sufficient detail to allow determination the effect of such lighting upon adjacent properties and traffic safety. A manufacturer's cut sheet of each type of fixture proposed shall also be submitted. Except as noted below, lighting fixtures shall not exceed a height of 25 feet. In portions of a site adjacent to residential areas, lighting fixtures shall not exceed a height of 20 feet. Building, ground or roof-mounted lighting intended to attract attention to the building or use and not strictly designed for security purposes is prohibited. Temporary holiday lighting and decorations are exempt from this provision.
 - l. Outdoor trash receptacle location and method of screening.
 - (3) *Access and circulation.* Site plans must include dimensioned drawings of all existing and proposed:
 - a. Acceleration, deceleration, passing lanes and approaches; dedicated road or service drive locations; proposed locations of driveways, access drives, street intersections; driveway locations on opposite frontage; dimensioned fire lanes, including curve radii; and surfacing materials.
 - b. Parking spaces, circulation aisles, off-street loading/unloading area, stacking spaces, signage and surfacing materials in compliance with Article X.
 - c. Sidewalks and curbs and surfacing materials.
 - (4) *Buildings and structures.*
 - a. Location, height, and outside dimensions of all existing and proposed buildings or structures on the site, with setbacks and yard dimensions, and of all existing buildings and structures within 100 feet of the site.
 - b. Front, side and rear building elevations with all windows, lights, doors, screened roof equipment and exterior materials, including color, indicated.
 - (5) *Utilities, soil erosion, sedimentation control, and drainage.*
 - a. Location, size and design of existing and proposed service facilities above and below ground, including:
 1. Water supply facilities including fire hydrants, water lines and mains.
 2. Sanitary sewage disposal facilities including manholes, catch basins, and sewer lines and mains.
 3. Gas, electric, telephone, fiberoptic and cable lines above and below ground.
 4. Transformers, generators, utility boxes or poles, communication equipment, satellite dishes over forty-eight (48) inches in diameter, and mechanical equipment.
 5. Easements.

6. Chemical and fuel storage tanks, transfer lines, and containers above and below ground.
- b. Grading plan showing existing and finished contours at a maximum interval of two feet.
- c. Drainage plan showing storm lines, storm drains, retention and detention ponds, existing drainage courses, proposed method of site and roof drainage, soil erosion and sedimentation control.
- (6) *Landscaping plan.* Location and description of all:
 - a. Existing trees with greater than a 4½-inch dbh.
 - b. Proposed landscaping, including berms, buffers, screens and greenbelts, lawns, shrubs, and other live plant materials.
 - c. Method of irrigation. Refer to the vegetation ordinance.
 - d. Screening walls and fences, including dimensions, materials and details.
- (7) *Additional requirements for multiple dwelling developments.*
 - a. Density (dwelling units per acre) calculations.
 - b. Designation of units by type and number of units in each building.
 - c. Garage or carport locations and details.
 - d. Architectural compatibility with surrounding area. Refer to section 24-184, Architectural compatibility and design guidelines.
- (8) *Additional requirements for commercial and industrial developments.*
 - a. Secondary containment facilities.
 - b. Number of employees at peak usage.
 - c. Location and dimension of outdoor sales or display areas.
 - d. Location and dimension of outdoor storage areas, and details of the enclosure, including a description of material, height, spacing and typical elevation.

(Ord. No. 1087, § 11.02, 3-8-10)

Sec. 24-243. - Review standards.

The planning commission shall review the site plan application and may suggest and/or require modifications to the proposed site plan or require additional information, which must be completed and resubmitted for approval within 60 days. The time limit may be extended upon a written request by the applicant and approval by the planning commission. Based upon the following standards, the planning commission may deny, approve, or approve with conditions the site plan:

- (1) The site plan conforms to the building and site design regulations of this and other applicable ordinances.
- (2) The applicant has provided documentation of compliance or proof of application with other appropriate agency review standards, including, but not limited to, the Michigan Department of Environmental Quality (MDEQ), Michigan Department of Transportation (MDOT) and other federal, state and county agencies, as applicable.
- (3) The proposed uses will not adversely affect existing uses by unreasonably increasing traffic, sound, artificial lighting, odors, emission of exhaust gases, drainage, pedestrian traffic, hours or days of operation, or by creating a public or private nuisance.
- (4) Safe, convenient, uncongested and well defined vehicular and pedestrian circulation within and to the site shall be provided.
- (5) All buildings and site circulation shall be arranged to permit emergency vehicle access by practicable means to all buildings and areas of the site.
- (6) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, alteration to the natural drainage courses, and the amount of cutting, filling and grading. Insofar as practical, existing natural features and the site topography shall be incorporated into the proposed site design.
- (7) The planning commission shall have the authority to require other studies and materials be submitted to confirm compliance with the standards of this section including, but not limited to, traffic impact studies, market studies, environmental assessments or utility capacity analysis at the expense of the applicant.

(Ord. No. 1087, § 11.03, 3-8-10)

Sec. 24-244. - Phasing of development.

The applicant may divide the proposed development into two or more phases. A separate site plan may be submitted for review and approval for each phase. Where a project is proposed for construction in phases, the sequencing and scheduled completion dates for each phase shall be approved by the planning commission. Additionally, planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of services, facilities, open space, access and circulation, and shall contain the necessary components to ensure the protection of the health, safety, and welfare of residents of the development and surrounding areas.

(Ord. No. 1087, § 11.04, 3-8-10)

Sec. 24-245. - Record of proceedings to be kept.

The planning commission shall state, in the record of its proceedings, the grounds for the actions taken concerning each site plan submitted for its approval and list any conditions imposed.

(Ord. No. 1087, § 11.05, 3-8-10)

Sec. 24-246. - Effect of approval.

Approval of a final site plan authorizes issuance of a building permit upon submittal of drawings in compliance with all pertinent codes or, in the case of uses without buildings or structures, issuance of a certificate of zoning compliance. The applicant shall submit a copy of the approved site plan in hardcopy and electronic formats with the building permit application, including all conditions and modifications required by the planning commission within 60 days of approval.

The planning commission may require a performance guarantee to be deposited with the community development department at the time of issuance of the building permit to ensure completion of the proposed project in accordance with MCL 125.3505.

(Ord. No. 1087, § 11.06, 3-8-10)

Sec. 24-247. - Amendment of approved site plan.

The director shall have the discretion to determine if a proposed change requires an amendment to an approved site plan. If an amendment is required, an application must be resubmitted to the planning commission in accordance with the procedure for a site plan review. The director may approve minor changes in an approved final site plan, upon the submittal of a revised site plan in accordance with the following:

- (1) Movement of a building or buildings by no more than five feet, provided all setback, parking, landscaping and other site requirements are still met.

- (2) Plantings approved in the landscape plan may be replaced by similar types and sizes of landscaping which provide a similar screening effect on an equal or greater basis.
- (3) Improvements to site access or circulation, such as deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, but not the addition of new driveways.
- (4) Changes of building materials or design, fencing, screening, or site amenities which will result in a higher quality development, as determined by the community development department.
- (5) Changes in interior floor plans which do not alter the character of the use.
- (6) Slight modification of sign placement or reduction of size.
- (7) Changes required or requested by a city, county, state or federal agency for safety reasons or for compliance with applicable laws that do not alter the basic design, compliance with the standards of approval, nor any specified conditions of the approved site plan.
- (8) Situations the community development department deems similar to the above that do not alter the basic design, compliance with the standards of approval, nor any specified conditions of the approved site plan.

(Ord. No. 1087, § 11.07, 3-8-10)

Sec. 24-248. - Conformity to site plan required.

An applicant, having secured approval of a site plan, must develop and maintain such site in complete conformity with the approved site plan. Modifications may be made only in accordance with the procedures set out above for site plan amendments.

(Ord. No. 1087, § 11.08, 3-8-10)

Sec. 24-249. - Expiration of approval.

Approval of a site plan shall expire two years following the date of approval unless construction has begun on the property in conformance with the approved site plan.

(Ord. No. 1087, § 11.09, 3-8-10)

Sec. 24-250. - Violations.

Any violation of this article, including any improvement or use not in conformance with an approved site plan, shall be deemed a violation of this chapter as provided in [section 24-396](#). Violations and penalties, and shall be subject to all applicable penalties.

(Ord. No. 1087, § 11.10, 3-8-10)

Secs. 24-251—24-270. - Reserved.

ARTICLE XII. - SPECIAL LAND USE

Sec. 24-271. - Application.

- (a) Applications for special land uses authorized by this chapter shall be submitted to the Community Development Department (CDD) on a form provided by the City. In addition to a complete application, the applicant is required to submit a site plan prepared in accordance with [section 24-242](#), Application, and written explanation of how the application satisfies [section 24-273](#), Review standards. Incomplete applications may not be accepted.
- (b) Special land uses may be approved by the city council after receiving a report from the planning commission, at council's discretion.

(Ord. No. 1087, § 12.01, 3-8-10)

Sec. 24-272. - Review procedures.

The procedures set forth below shall be followed upon the receipt of a completed special land use application, in addition to the procedures listed in [section 24-242](#), Application:

- (1) CDD shall review the proposed application and proposed site plan to determine if all required information has been supplied and forward the completed application, site plan and supporting data to the planning commission for a report and recommendation to city council.
- (2) Upon receipt of a completed application, proposed site plan and supporting data, CDD shall schedule a public hearing in accordance with [section 24-394](#), Public hearings.
- (3) Following the close of the public hearing, the planning commission shall review the special land use application, site plan and supporting data and shall, within 90 days, make a report or recommendation to either approve, approve with conditions or deny the proposed special land use. The planning commission shall state the reasons for its decision and any conditions imposed on the record. A recommendation to approve or approve with conditions shall not constitute approval of the special land use.
- (4) Upon completion of any report and any recommendation by the planning commission, the matter shall be scheduled for consideration by city council. Council may, but shall not be required to, hold a public hearing. If council decides to hold a public hearing, notice shall comply with the provisions of [section 24-394](#), Public hearings.
- (5) The city council shall, within 90 days of consideration of the proposed application, approve, approve with conditions or deny a request for a special land use. The city council shall state the reasons for its decision on the record and list any conditions imposed.
- (6) The city council may impose such conditions and safeguards as are deemed necessary for the general welfare, including conditions necessary to: ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads covered by the land use or activity; protect the natural environment and conserve natural resources and energy; ensure compatibility with adjacent uses of land; protect the use of land in a socially and economically responsible manner; protect individual property rights; and to ensure that the purposes of this chapter and the general spirit and purposes of the district in which the special use is proposed will be observed. Conditions so required shall conform to the requirements of the Zoning Act, as amended.

(Ord. No. 1087, § 12.02, 3-8-10)

Sec. 24-273. - Review standards.

The city council and the planning commission shall review a request for a special land use in reference to any specific standards stated within this chapter, including the standards for review of site plans, and shall determine whether the proposed special land use will:

- (1) Unreasonably detract from, erode or reduce the desirability or economic viability of any residential or business uses within 2,500 feet of the proposed use.
- (2)

Be designed, constructed, operated and maintained so as to be harmonious with the existing or intended character of the general vicinity and will not change the essential character of the area. The site design of the proposed special land use shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:

- a. The location and screening of vehicular circulation and parking areas in relation to surrounding development.
 - b. The location and screening of outdoor storage, outdoor activity or work areas and mechanical equipment in relation to surrounding development.
 - c. The hours of operation of the proposed use. Approval of a special land use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
 - d. The bulk, placement and materials of construction of the proposed use in relation to surrounding uses.
 - e. The impact of parking or traffic on the surrounding area.
- (3) Be served adequately by existing public services and facilities and not impose additional service demands upon the city that will not be adequately addressed by the applicant.
 - (4) Further enhance the public health, safety, welfare, and economic benefit and the municipal purposes and policies of the City.
 - (5) Be consistent with the intent and purposes of this chapter and the objectives of the master plan and comply with all applicable state and federal laws.
 - (6) The planning commission shall have the authority to require other studies and materials be submitted to confirm compliance with the standards of this section, including but limited to, traffic impact studies, market studies, environmental assessments or utility capacity analyses at the expense of the applicant.

(Ord. No. 1087, § 12.03, 3-8-10)

Sec. 24-274. - Expiration of approval.

Unless otherwise specified by the city council, any special land use approved under this section shall expire two years following the date of approval unless construction has begun on the property in conformance with the approved site plan. The community development department shall give notice by certified mail to the applicant before the approval is declared void. Said notice shall be mailed to the applicant at the address indicated on the application. Within 30 days of receipt of notice of intent to void, the applicant shall have the right to request an extension from the city council. The city council may grant an extension for good cause shown, for a period not to exceed one year.

(Ord. No. 1087, § 12.04, 3-8-10)

Sec. 24-275. - Revocation.

- (a) The city shall have the authority to revoke any special land use approval after the applicant has failed to comply with any of the applicable requirements of this article, other applicable Sections of this Ordinance, conditions of the special land use approval or if one or more of the following conditions apply:
 - (1) The special land use is not constructed in conformance with the approved plans or the property is not being used in conformance with the approval special land use.
 - (2) Compliance with the special land use permit and any conditions has not been consistently demonstrated and administrative attempts to secure compliance have been unsuccessful.
 - (3) The special land use permit is issued erroneously on the basis of incorrect or misleading information supplied by the applicant.
- (b) The planning commission shall conduct a public hearing in accordance with section 24-394, Public hearings. The applicant shall be provided an opportunity to present information and to answer questions.
- (c) The planning commission shall make a recommendation to the city council to revoke the special land use if it finds that a violation exists and has not been remedied.

(Ord. No. 1087, § 12.05, 3-8-10)

Sec. 24-276. - Reapplication.

Applications for a special land use which have been denied wholly or in part shall not be resubmitted until the expiration of one (1) year from the date of such denial, except on grounds of newly discovered evidence or change of conditions found to be sufficient to justify reconsideration by the planning commission.

(Ord. No. 1087, § 12.06, 3-8-10)

Sec. 24-277. - Amendment of approved special land use.

- (a) The community development department shall determine whether a proposed amendment constitutes a minor or major amendment, based on the total cumulative expansion since the original special land use approval as follows:
 - (1) Changes increase the building's usable floor area by more than 20 percent.
 - (2) Parking lots are expanded by more than 20 percent.
 - (3) The occupancy, capacity or membership of the use is increased by more than 20 percent.
 - (4) The use is expanded to occupy an additional 20 percent or more land area.
 - (5) The expansion will result in a 20 percent or more increase in traffic generation based upon the latest edition of the Institute of Traffic Engineers Trip Generation Manual or will change the number or location of driveway access points.
 - (6) Any change affecting any previous approved special use condition imposed by the city.
- (b) Any change which meets or exceeds one or more of the conditions listed above shall be considered a major amendment and shall require a new special land use permit and shall be reviewed using the procedures and requirements of this article.
- (c) Minor amendments do not require a new application for a special land use, but shall still be subject to the site plan review requirements of Article XI, Site Plan Review.
- (d) Change to another type of special land use shall require submission of a new application for a special land use following the review procedures contained in this article. A change in use that is still the same type of use, as determined by the community development department, shall not require a new special land use application, unless it involves a major amendment. A change in ownership shall not constitute a change in use.

(Ord. No. 1087, § 12.07, 3-8-10)

Sec. 24-278. - Appeals.

The board of zoning appeals (BZA) shall not have the authority to hear appeals of the planning commission's or city council's decision to approve or deny a special land use, nor to grant variances to any conditions imposed on special land use approval. Appeals from decisions under this article may be taken to circuit court.

(Ord. No. 1087, § 12.08, 3-8-10)

Secs. 24-279—24-300. - Reserved.

ARTICLE XIII. - PLANNED UNIT DEVELOPMENT (PUD)

Sec. 24-301. - Intent.

Planned Unit Development (PUD) regulations are intended to provide a development option that allows for flexibility in normal zoning requirements. Through this option, more creative approaches to development can be used which take better advantage of the special characteristics of the land than would be possible through the strict enforcement of this chapter. The specific objectives of this article are to:

- (1) Encourage innovation in land use and variety in design, layout and type of structures.
- (2) Achieve efficiency in the use of land, natural resources, energy, public services and utilities.
- (3) Permit flexibility in the zoning regulations while assuring the application of sound site planning standards.
- (4) Provide opportunities for improvements to public infrastructure and facilities.
- (5) Promote the development of compact, mixed use developments that will support public transportation and result in sustainable and healthy neighborhoods.
- (6) Encourage the reuse and improvement of existing sites.
- (7) Encourage the use and improvement of land where site conditions make development under conventional zoning difficult and less desirable.
- (8) If any provision of this article conflicts with any other provisions of this chapter, this article shall apply to lands within the PUD.

(Ord. No. 1087, § 13.01, 3-8-10)

Sec. 24-302. - Permitted uses.

Uses permitted in a PUD are based on the underlying zoning district. All permitted and special land uses of the underlying zoning district shall be permitted. Additional uses may be allowed in a PUD as follows:

- (1) *Residential PUD.*
 - a. Where the underlying zoning is R-1 or R-2, a minimum of 80 percent of the dwellings shall be detached single-family dwellings and up to 20 percent may be attached single-family or multiple-family dwellings.
 - b. Where the underlying zoning is R-3 or R-4, any mixture of detached and attached single-family and multiple-family is permitted.
- (2) *Mixed use and commercial PUD.*
 - a. Commercial uses allowed in the C-2 district may occupy up to 10 percent of the gross site area in a residential district.
 - b. Residential uses may be permitted in a commercial or office district. Other uses may be allowed where the planning commission determines them to be consistent with surrounding uses and master plan.
- (3) *Industrial PUD.* Commercial uses that provide services to businesses and employees in the immediate area, such as convenience retail, restaurants, business services and hotels, may be permitted in an industrial district where the planning commission determines the uses contribute towards an integrated employment district.

(Ord. No. 1087, § 13.02, 3-8-10)

Sec. 24-303. - Qualifying conditions.

- (a) The PUD shall be planned and developed as a as a cohesive project.
- (b) The PUD shall be compatible with the overall goals and recommendations in the City of Ferndale Master Plan.
- (c) The PUD shall result in recognizable and substantial benefits to the city overall that would not be available under the existing, underlying zoning classification. The protection of the environment, general compatibility with adjacent land uses, availability of public facilities and services and the protection of the public health, safety and welfare. Benefits beyond those otherwise required by this Ordinance may include, but are not limited to:
 - (1) Preservation of significant natural features.
 - (2) A complementary mixture of uses.
 - (3) Sustainable building and site design.
 - (4) Open space greenways to link to adjacent greenway corridors.
 - (5) Transition areas from adjacent land uses.
 - (6) Provision of affordable housing units.
 - (7) Diversification of housing types provided in the city.
 - (8) Preservation of historical buildings or site features.
 - (9) Improvements to the public street system to mitigate traffic impacts or other public facility improvements to mitigate impacts of development.
 - (10) Pedestrian and transit oriented development.
 - (11) Coordinated development of multiple assembled small parcels.
 - (12) Removal or renovation of blighted buildings or sites or clean-up of site contamination.

(Ord. No. 1087, § 13.03, 3-8-10)

Sec. 24-304. - Site development requirements.

- (a) All chapter requirements shall remain in full force except as modified under this section.
- (b) To encourage flexibility and creativity, the planning commission may recommend the city council grant specific deviations from the requirements of this chapter as a part of the PUD approval, provided that such deviations result in a higher quality of development.
- (c) A list of all the deviations from this chapter must be specified as part of the application. This specification must list Ordinance provisions from which deviations are sought, justifications for those deviations and mechanisms to be used for the protection of the public health, safety and welfare.
- (d) Reasonable conditions may be required with the approval of a PUD, to the extent authorized by law, for the purpose of ensuring that affected public services will be capable of accommodating increased loads caused by the development, ensuring compatibility with adjacent land uses and promoting the use of land in a socially and economically desirable manner.
- (e) All PUD shall include landscaped open space. Ten percent of the development shall be open space as follows:
 - (1) At least half of the required landscaped open space shall be contiguous with a width to length ratio of one to three (1:3). This standard is intended to ensure open space is valuable and usable rather than scattered, isolated or remnant lands. The city may waive this standard for clearly identified pathway corridors.
 - (2) Required setbacks or landscaped areas required in section 24-191. Landscaping shall not be counted towards meeting common open space.

- (3) The city may approve a lower percentage of open space if the applicant provides sustainable design methods that minimize the overall amount of impervious surfaces on site through the use of techniques such as green roofs or permeable pavements or provides or enhances open space elsewhere in the city.

(Ord. No. 1087, § 13.04, 3-8-10)

Sec. 24-305. - Review procedures.

- (a) *Preliminary PUD plan.* Prior to making a formal application, the applicant shall present a preliminary PUD plan to the planning commission. The preliminary PUD plan review does not constitute any form of approval of the PUD, but is intended to give the applicant an indication of the issues and concerns that must be resolved prior to final PUD submission. The preliminary PUD plan shall include the following:
- (1) General location map.
 - (2) Map indicating the zoning designation(s) and land uses of the site and surrounding properties.
 - (3) Acreage of the site.
 - (4) Vehicular circulation system.
 - (5) General locations and approximate size of any natural features of the site.
 - (6) General location and size of buildings, parking and open space areas.
 - (7) General description of the proposed sewage treatment and water supply systems and the proposed storm water drainage system.
 - (8) Description of how the proposed PUD will result in recognizable and substantial benefits to the city that would not be available under the underlying zoning district.
- (b) *Final PUD plan.*
- (1) *Procedure.*
 - a. Establishment of a PUD shall be accomplished through an amendment to the zoning map creating a PUD overlay district.
 - b. The planning commission shall hold a public hearing in accordance with section 24-394, Public hearings and make a recommendation to the city council to approve, approve with conditions or deny the final PUD plan and associated rezoning.
 - c. Upon receipt of the recommendation from the planning commission, the city council shall hold a public hearing and approve, approve with conditions or deny the final PUD plan and associated rezoning.
 - (2) *Contents.* Within six months of review of a preliminary PUD plan, a final PUD plan shall be submitted for review that includes the following:
 - a. A complete site plan in accordance with the procedures of Article XI, Site Plan Review.
 - b. Written response to the rezoning requirements as established in Section 24-324, Criteria for amendment of the official zoning map (Rezoning).
 - c. A draft development agreement specifying the following:
 1. The permitted uses within the PUD.
 2. The conditions upon which the approval is based, including phasing requirements, requirements for on-site improvements and contributions to required improvements to public facilities.
 3. Open space or common areas which shall be conveyed in fee or committed by dedication to an association of the property owners. As part of the final site plan approval, documentation shall be recorded establishing a homeowners association for the maintenance of the open space.
 4. A program and financing for maintaining common areas and features, such as walkways, signs, lighting and landscaping. A fund shall be established for continual maintenance of the open space.
 5. Assurance that trees and woodlands will be preserved as shown on the site plan, or replaced on a caliper for caliper basis.
 6. Assurance that the construction and maintenance of all streets and utilities (including public water, waste water collection and treatment), recreational facilities and other improvements shall be completed.
 7. Provisions for liability insurance in an amount to be determined by the city, naming the city as an additional insured.
 8. Provisions including specific terms or conditions regarding the expiration or revocation of the PUD zoning.
 - d. The city shall have the authority to require other studies and materials be submitted to confirm compliance with the standards of this article including, but not limited to, traffic impact studies, market studies, environmental assessments or utility capacity analysis.
- (c) Decisions made by the planning commission and city council relative to PUD are not appealable to the board of zoning appeals (BZA).
- (d) Expiration of approvals for PUD's shall be consistent with section 24-249, Expiration of approval.

(Ord. No. 1087, § 13.05, 3-8-10)

Secs. 24-306—24-320. - Reserved.

ARTICLE XIV. - AMENDMENTS

Sec. 24-321. - Initiation.

- (a) The city council may, from time to time, amend, modify, supplement or revise the zoning district boundaries shown on the official zoning map (rezoning) or the provisions of this article (text amendment). Rezoning may be initiated by the city council, the planning commission or by the owner(s) of property that is the subject of the proposed amendment. Text amendments may be initiated by the city council, the planning commission or by petition of one or more residents or property owners of the city. All proposed amendments shall be referred to the planning commission for public hearing and recommendation prior to consideration by the city council.
- (b) The planning commission may recommend amendments to the future land use designations shown on the City of Ferndale Master Plan for approval by city council, unless city council passes a resolution that delegates authority to adopt amendments to the master plan to the planning commission. an amendment may be initiated by the planning commission or by petition of one or more residents or property owners of the city.

(Ord. No. 1087, § 14.01, 3-8-10)

Sec. 24-322. - Application.

An amendment to the official zoning map, this charter or the master plan, if not initiated by the city council or planning commission, shall be initiated by submission of a completed application, including an application fee that shall be established by resolution of the city council.

- (1) In the case of a rezoning, the following information shall be submitted:
 - a. A legal description and street address of the subject property with a map identifying the subject property in relation to surrounding properties.
 - b. The name, signature and address of the owner of the subject property, a statement of the applicant's interest in the subject property if not the owner, or proof of consent from the property owner.

- c. The existing and proposed zoning district designation of the subject property.
 - d. Existing zoning district designation of all adjacent property.
 - e. A site analysis site plan illustrating existing conditions on the site and adjacent properties, such as soil conditions, drainage patterns, views, existing buildings, any sight distance limitations and relationship to other developed sites and access points in the vicinity.
 - f. A conceptual plan demonstrating that the site could be developed with representative uses permitted in the requested zoning district meeting requirements for setbacks, any required service drives and other site design factors.
 - f. A written environmental assessment describing site features and anticipated impacts created by the permitted uses in the requested zoning districts.
 - g. A traffic impact analysis if any permitted use in the requested zoning district could generate 50 or more peak hour directional trips or 750 or more vehicle trips per typical day. The traffic study should contrast the daily and peak hour trip generation rates for representative use in the current and requested zoning district. The determination of representative uses shall be made by the planning commission with input from city staff and consultants.
 - h. A written description of how the requested rezoning meets section 24-324, Criteria for amendment of the official zoning map (rezoning).
 - j. The planning commission shall have the authority to require other studies and materials be submitted to confirm compliance with the standards of this article including, but not limited to, market studies, environmental assessments or utility capacity analysis at the expense of the applicant.
- (2) In the case of an amendment to the master plan or this chapter, other than a rezoning, a general description of the purpose and intent of the proposed amendment shall accompany the application.

(Ord. No. 1087, § 14.02, 3-8-10)

Sec. 24-323. - Procedure.

- (a) Upon initiation of an amendment, the provisions of Zoning Act, as amended must be met. A public hearing on the proposed amendment shall be scheduled before the planning commission in accordance with the standards set forth in section 24-394, Public hearings.
- (b) Following the public hearing, the planning commission shall identify and evaluate all factors relevant to the petition and shall report its findings and recommendation to the city council, except in the case of a master plan amendment. If city council passes a resolution that delegates authority to the planning commission to adopt amendments to the master plan, in which case the planning commission shall have the authority to adopt or deny a master plan amendment.
- (c) Following receipt of the findings and recommendation of the planning commission, the city council shall consider the proposed amendment. In the case of a text amendment or rezoning, the city council may modify or revise the proposed amendment as recommended by the planning commission prior to enactment.
- (d) Petitions for rezonings, text amendments or master plan amendments that have been denied by the city council or planning commission shall not be resubmitted for a period of one year from the date of denial except on the grounds of new evidence, materially revised request, or proof of changed conditions relating to all of the reasons noted for the denial found to be valid by the planning commission.

(Ord. No. 1087, § 14.03, 3-8-10)

Sec. 24-324. - Rezoning criteria.

The planning commission shall and the city council may consider the following criteria in making its findings, recommendations and decision:

- (1) Consistency with the goals, policies and future land use map of the City of Ferndale Master Plan, including any subarea or corridor studies. If conditions have changed since the current master plan was adopted, the consistency with recent development trends in the area.
- (2) Compatibility of the site's physical, geological, hydrological and other environmental features with the potential uses allowed in the proposed zoning district.
- (3) The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
- (4) The capacity of city infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the city.
- (5) The apparent demand for the types of uses permitted in the requested zoning district in the city in relation to the amount of land in the city currently zoned to accommodate the demand.
- (6) Where a rezoning is reasonable given the above criteria, a determination shall be made that the requested zoning district is more appropriate than another district or than amending the list of permitted or special land uses within a district.

(Ord. No. 1087, § 14.04, 3-8-10)

Sec. 24-325. - Conditional rezoning.

- (a) An applicant requesting a rezoning may voluntarily offer a conditional rezoning. An election to submit a conditional rezoning agreement shall be pursuant to the Zoning Act and this section.
 - (1) The conditional rezoning shall be in writing, executed by the applicant and the city and recorded with the Oakland County Register of Deeds. All costs associated with the review and approval of the conditional rezoning agreement shall be the responsibility of the applicant.
 - (2) The conditional rezoning may include limitations on: the uses permitted on the property in question; density or intensity of use; and location, size, height or other measure for buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features.
 - (3) The conditional rezoning shall not authorize uses or developments of greater intensity or density than those permitted in the proposed zoning district; nor may a conditional rezoning agreement permit variations from height, area, setback or similar dimensional requirements that are less restrictive than the proposed zoning district.
 - (4) The conditional rezoning may include conditions related to the use and development of the property that are necessary to:
 - a. Serve the property with improvements, including but not limited to, the extension, widening or realignment of streets; construction or extension of utilities or other infrastructure improvements serving the site; or the construction of recreational facilities.
 - b. Minimize the impact of the development on surrounding properties and the city overall.
 - c. Preserve natural features and open space beyond what is normally required.
- (b) In addition to any limitations on use or development of the site, preservation of site features or improvements described above, the conditional rezoning agreement shall also include the following:
 - (1) A legal description of the land to which the agreement pertains.
 - (2) An acknowledgement that the conditional rezoning agreement was proposed voluntarily by the applicant.

- (3) A statement that the property shall not be developed or used in any manner that is not consistent with the conditional rezoning agreement.
 - (4) A statement that the approval of the rezoning and the conditional rezoning agreement shall be binding upon and inure to the benefit of the property owner and the city and also their respective heirs, successors, assigns, receivers or transferees. Where the applicant for rezoning is acting on behalf of the landowner through some form of purchase agreement or other mechanism, then the landowner must also consent and sign the agreement.
 - (5) A statement that, if a rezoning with a conditional rezoning agreement becomes void in accordance with this section, that no further development shall take place and no permits shall be issued.
 - (6) A statement that no part of the conditional rezoning agreement shall permit any activity, use or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new zoning district.
 - (7) Any other provisions as are agreed upon by the city and applicant.
- (c) *Process.*
- (1) The conditional rezoning agreement shall be reviewed concurrently with the petition for rezoning following the process in section 24-323, Procedure.
 - (2) The conditional rezoning agreement may be submitted prior to planning commission making its recommendation to the city council. The conditional rezoning agreement shall be reviewed by the city attorney, at the expense of the applicant, to determine that the conditional rezoning agreement conforms to the requirements of this section and the Zoning Act and shall confirm that the conditional rezoning agreement is in a form acceptable for recording with the Oakland County Register of Deeds.
 - (3) Following the public hearing for a proposed zoning amendment, the planning commission shall make a recommendation to the city council based upon the criteria listed in section 24-323, Criteria for amendment of the official zoning map (rezoning). In addition, the planning commission shall consider whether the proposed conditional rezoning agreement:
 - a. Is consistent with the intent of this chapter.
 - b. Bears a reasonable and rational connection or benefit to the property being proposed for rezoning.
 - c. Is necessary to ensure that the property develops in such a way that protects the surrounding neighborhood and minimizes any potential impacts to adjacent properties.
 - d. Is necessary to allow the rezoning to be approved, in that the property could not or would not be rezoned without the proposed conditional rezoning agreement.
 - e. Is in the public interest and is consistent with the recommendations of the master plan.
 - (4) If a conditional rezoning agreement has been offered by the applicant and recommended for approval by the planning commission, the city council may approve the conditional rezoning agreement as a condition to the rezoning if it meets all requirements above. The conditional rezoning agreement shall be incorporated by attachment or otherwise as an inseparable part of the Ordinance adopted by the city council to accomplish the requested rezoning.
 - (5) If the conditional rezoning is approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned and a reference to the conditional rezoning agreement. The zoning map shall specify the new district plus an asterisk to indicate that the property is subject to a conditional rezoning agreement (i.e., "R-1*"). The city clerk shall maintain a listing of all properties subject to conditional rezoning agreements and shall provide copies of the agreements upon request.
 - (6) The approved conditional rezoning agreement shall be recorded with the Oakland County Register of Deeds.
 - (7) Any uses proposed as part of a conditional rezoning agreement that would otherwise require approval of a special land use or site plan approval shall be subject to the applicable review and approval requirements of Article XI, Site Plan Review and Article XII, Special Land Use.
- (d) *Expiration of approval*
- (1) The rezoning and conditional rezoning agreement shall expire, unless extended by the city council for good cause, two years after adoption if substantial construction on the approved development of the property pursuant to building and other required permits issued by the city has not commenced or is not proceeding diligently to completion.
 - (2) In the event that substantial construction on the approved development has not commenced within the aforementioned two years, the conditional rezoning agreement shall be void and of no effect.
 - (3) Should the conditional rezoning agreement become void, all development on the property shall cease and no further development shall be permitted. Until action satisfactory to the city is taken to bring the property into compliance with the conditional rezoning agreement, the city may withhold or, following notice to the applicant and being given an opportunity to be heard, revoke permits and certificates. This shall be in addition to or in lieu of any other lawful action to achieve compliance, including rezoning.
 - (4) Notwithstanding the above, if the property owner applies in writing for an extension of the conditional rezoning agreement at least 30 days prior to the expiration date, the city council may grant an extension of up to one (1) year if it determines that the owner has made diligent effort towards completing the conditions of the agreement.
- (e) *Reversion of zoning.* If the conditional rezoning agreement becomes void as outlined above, then the land shall automatically revert back to its original zoning classification. The community development department will advise the land owner and/or developer, by registered letter, of the reversion of zoning. The city shall take affirmative action to rezone the property.
- (f) *Continuation.* Provided that all development and/or use of the property in question is in compliance with the conditional rezoning agreement, a use or development authorized there under may continue indefinitely, provided that all terms of the conditional rezoning agreement continue to be met.
- (g) *Amendment.* The conditional rezoning agreement may be amended by the city council with the property owner's consent in the same manner as was prescribed for the original rezoning and conditional rezoning agreement.
- (h) *Violation of agreement.* Failure to comply with the conditional rezoning agreement at any time after approval will constitute a breach of the agreement and also a violation of this Ordinance. Further use of the property may be subject to legal remedies available to the city.
- (i) *Subsequent rezoning of land.* Nothing in the conditional rezoning agreement, nor any statement or other provision, shall prohibit the city from later rezoning all or any portion of the property that is the subject of the conditional rezoning agreement to another zoning classification. Any rezoning shall be conducted in compliance with this chapter and the Zoning Act.
- (j) *Failure to offer conditions.* The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect the owner's rights under this chapter.
- (k) *City not obligated.* The city is not required or obligated to accept any or all conditions offered by a developer on a rezoning application. In no way is an offer of a conditional rezoning agreement the basis for requiring the city to approve a rezoning application.

(Ord. No. 1087, § 14.05, 3-8-10)

Secs. 24-326—24-340. - Reserved.

ARTICLE XV. - LAND DIVISION

Sec. 24-341. - Intent.

The intent of this article is to regulate the division and partitioning of land, so as to benefit the health, safety and welfare of residents and property owners.

(Ord. No. 1087, § 15.01, 3-8-10)

Sec. 24-342. - Division of land.

- (a) It shall be unlawful for any person, firm or corporation to divide, subdivide or split any lot, outlot, parcel of land, or transfer a portion thereof, whether in a recorded plat or an unplatted parcel or tract of land, except in accordance with this article and the provisions of the Land Division Act, MCL 560.101 et seq, as amended.
- (b) Procedures.
 - (1) Prior approval pursuant to this article shall be obtained from the city assessor.
 - (2) The resulting lots shall meet the provisions of this article. A lot split, division or subdivision that results in a lot that does not comply with this article shall be permitted only if the non-complying lot is immediately combined with an adjoining lot and together they meet the provisions of this article. The applicant shall submit a fully executed affidavit in a form sufficient for recording with the Oakland County Register of Deeds, signed by all persons who have any legal interest in the parcel, acknowledging that they understand that the partitioned or divided parcel(s) is part of the adjoining lot. The affidavit shall be recorded as a covenant running with the land and it shall be unlawful to develop the parcel(s) except in conjunction with the adjoining parcel(s).
 - (3) Approval of a proposed split, division or subdivision by the city assessor shall not constitute any assurance that a building permit will be issued.
 - (4) Public sewer and water shall be available to the lots resulting from the proposed split, division or subdivision.
 - (5) Any past or currently due taxes or special assessments upon the property shall be paid within 60 days of the split, division or subdivision of the parcel.
- (c) An applicant seeking to split, divide or subdivide any parcel of land regulated by this chapter or by the Land Division Act shall submit an application to the city assessor in a format approved by same. The application shall include the following:
 - (1) A document in a form sufficient for recording with the Oakland County Register of Deeds that contains a legal description of all of the lots, outlots, parcels or parts thereof that will result from the proposed split, division, subdivision or transfer.
 - (2) A plan or drawing drawn to scale by a registered engineer or surveyor showing the subject property including its dimensions. The plan or drawing shall indicate existing buildings and structures and their dimensions and setbacks from proposed and existing property lines, sewer and water access, above and below ground utilities and easements.
 - (3) The application shall be accompanied by a fee as approved by city council.
- (d) Any applicant who is aggrieved by any denial or other action under this chapter may appeal to the city council. All matters referred to Council under the provisions of this article shall require a public hearing in accordance with section 24-394, Public hearings. City council may, after review of the decision and after a public hearing, reverse, modify or affirm the city assessor's decision in whole or in part based on the standards provided in this chapter and in section 24-426, Standards for review.

(Ord. No. 1087, § 15.02, 3-8-10)

Sec. 24-343—24-360. - Reserved.

ARTICLE XVI. - NONCONFORMITIES

Sec. 24-361. - Intent.

- (a) Existing lots, structures and uses that were lawful before this Ordinance was adopted, but have become nonconforming under the terms of this chapter and its amendments, are declared nonconforming and not in violation of this chapter. It is the intent of this chapter to permit those nonconforming uses or structures to remain until they are discontinued or removed or, where discontinuance or removal is not feasible, to gradually upgrade nonconforming uses or structures to conforming status. Nonconforming lots, structures and uses shall not be enlarged, expanded, altered or extended except as otherwise permitted by law and shall not be used as grounds for adding other structures and uses.
- (b) Those uses which cannot be proved conclusively to have legally existed prior to the effective date of this chapter are hereby declared illegal uses and shall be subject to enforcement under the provisions of this chapter.
- (c) Nonconforming uses and structures are declared to be incompatible with the district in which they are located. Except as may be permitted by this article, a nonconforming use or structure shall not be permitted to increase its nonconformity.
- (d) To avoid undue hardship, nothing in this article shall be deemed to require a change in the plans, construction or designated use of any structure on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this article, and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to mean that the property owner has begun substantial construction under a lawfully-issued building permit.

(Ord. No. 1087, § 16.01, 3-8-10)

Sec. 24-362. - Nonconforming lots.

- (a) Any nonconforming lot shall be permitted to be used for a use permitted in the district in which it is located if all buildings and structures meet the schedule of regulations for the district.
- (b) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling along with customary accessory building(s) may be erected on any single lot of record in existence at the effective date of adoption of this chapter. The lot may be developed without the need for a variance from the board of zoning appeals (BZA) to lot area or width requirements, provided all setbacks and other requirements can be met.

(Ord. No. 1087, § 16.02, 3-8-10)

Sec. 24-363. - Nonconforming uses.

The use of any land or structure existing and lawful on the effective date of this chapter may be continued, even though the use does not conform to the use provisions of this chapter, subject to the following conditions:

- (1) *Expansions.* Except as otherwise permitted by law, nonconforming uses shall not be enlarged, increased, altered, moved in whole or in part or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
- (2) *Restoration of damage.* If a structure that is occupied by a nonconforming use is damaged by any means or in any manner to the extent that the cost of reconstruction or restoration exceeds 100 percent the value of such structure prior to the damaging occurrence, as determined by the most recent assessment of the market value of the structure, excluding the value of land, for purposes of taxation, such structure may be reconstructed or restored only if its use conforms with the provisions of this

chapter.

- (3) *Repairs to nonconforming use.* On any structure devoted in whole or in part to any nonconforming use, other than a single-family dwelling, 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 25 percent of the current replacement value of the structure, provided that the structure is not enlarged, extended, moved or structurally altered.
- (4) *Safety repairs.* Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any department charged with protecting the public safety, upon order of such department.
- (5) *Prohibition on reestablishment if replaced by conforming use.* If a nonconforming use is terminated and replaced by a permitted use, such nonconforming use shall not be later reestablished.
- (6) *Discontinuance or termination of nonconforming use.* When a nonconforming use ceases operation for six consecutive months, the structure or structure and land in combination shall not thereafter be used except in conformance with the regulations of the zoning district in which it is located. A nonconforming use shall be determined to have ceased operation if one or more of the following conditions, which shall be deemed to constitute intent on the part of the property owner to abandon the nonconforming use, exist:
 - a. Utilities, such as water, gas and electricity to the property, have been disconnected.
 - b. The property, buildings or grounds are uninhabitable, structurally deficient or inaccessible.
 - c. Signs or other indications of the existence of the nonconforming use have been removed.
 - d. Removal of equipment or fixtures which are necessary for the operation of the nonconforming use.
 - e. Other actions, which in the opinion of the community development department constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.
- (7) *Change of tenancy or ownership.* There may be a change of tenancy, ownership or management of a nonconforming use, provided there is no change in character to the non-conformity and that all building and fire codes are met.

(Ord. No. 1087, § 16.03, 3-8-10)

Sec. 24-364. - Nonconforming structures or buildings.

Structures and buildings that are existing and lawful on the effective date of the ordinance from which this chapter derives may be continued even though the structure or building does not conform with the dimensional or other provisions of this chapter, subject to the following provisions of this section.

- (1) *Expansions.*
 - a. Except as otherwise permitted by law, a nonconforming structure, building or section thereof shall not be enlarged, extended, constructed, reconstructed or altered in any way that increases the nonconformity.
 - b. Should a nonconforming building or structure be moved, it shall conform to the requirements of the district to which it is relocated.
 - c. A residential nonconforming building may be expanded provided the expansion will be within required setbacks and other dimensional and building code requirements.
- (2) *Restoration of damage.* Should a nonconforming building or structure or section thereof be destroyed by any means to an extent equal to or more than 100 percent of state equalized value of the building or structure at the time of destruction, it shall not be reconstructed except in conformance with the provisions of this article.
 - a. If the damage, exclusive of the foundation, is less than 100 percent of state equalized value, then the building, structure or section thereof may be restored, subject to approval of the planning commission, but in no event shall there be an increase in the nonconforming condition that existed before the damage. Restoration shall be started within one year of the date of the destruction and shall be diligently pursued until completion.
 - b. Foundations, or any part thereof, shall not be reused unless they comply with the schedule of regulations of that district.
 - c. Where nonconforming status applies to a building or structure and a use of land, in combination, the removal or destruction of the structure shall eliminate the non-conforming status of the land. In that event, the nonconforming use shall not be resumed.
- (3) *Repairs, improvements or modernization.* Repairs, improvements or modernization of non-conforming structures and buildings shall be permitted provided the repairs or improvements do not exceed 50 percent of the value of the building or structure during any period of 12 consecutive months. This cost/value calculation shall not include any costs associated with modernization of electrical, plumbing, heating or cooling systems to meet building code requirements. However, if a nonconforming structure or a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of maintenance and repairs and is declared as such by the community development department, it shall not thereafter be restored, repaired or rebuilt except in full conformity with the regulations in the district in which it is located.
- (4) *Permitted building improvements.* A building that is nonconforming may be altered or rehabilitated if such activity will make the building conform to the regulations of this chapter and the building code.
- (5) *Reconstruction of a damaged residential structure.* In the event a nonconforming residential structure or building is damaged by fire or other natural cause, a residential structure may be reconstructed on the same foundation provided the first floor footprint and the total floor area does not exceed the size of the previous residence.
- (6) *Change of tenancy or ownership.* There may be a change of tenancy, ownership or management of a nonconforming structure or building, provided there is no change in character to the nonconformity and that all building and fire codes are met.

(Ord. No. 1087, § 16.04, 3-8-10)

Sec. 24-365. - Record of nonconforming uses, buildings and structures.

Within one year after the adoption of the ordinance from which this chapter derives, the building inspector shall prepare and maintain a record of all nonconforming uses, buildings and structures existing at the time the ordinance from which this chapter derives is published.

(Ord. No. 1087, § 16.05, 3-8-10)

Sec. 24-366. - Removal of nonconforming uses, buildings or structures.

The planning commission may, from time to time, recommend to city council the acquisition of nonconforming private property and the discontinuance of the nonconforming use or the removal or upgrade of the building or structure to make it conforming. Any action under this section shall comply with all applicable federal and state laws.

(Ord. No. 1087, § 16.06, 3-8-10)

Sec. 24-367. - Nuisance abatement of nonconforming uses, buildings or structures.

Buildings or structures erected, altered or converted to uses in violation of this chapter are declared to be a nuisance. The owner or agent in charge of the use, building or structure shall be held responsible for maintaining a nuisance and the nuisance shall be abated.

(Ord. No. 1087, § 16.07, 3-8-10)

Secs. 24-368—24-390. - Reserved.

ARTICLE XVII. - ADMINISTRATION AND ENFORCEMENT

Sec. 24-391. - Zoning administration.

The director shall have the duty to administer and enforce the provisions of this chapter. In exercising those duties, the director shall have the authority provided by law for the enforcement of ordinances, including but not limited to the authority to issue and serve municipal civil infraction citations and municipal civil infraction violation notices, as provided by MCL 600.8701 et seq., as amended, and the right to enter private premises as provided by law.

(Ord. No. 1087, § 17.01, 3-8-10)

Sec. 24-392. - Duties.

The director shall:

- (1) Receive and review for completeness all applications for site plan review, special land use, rezoning, and PUD's that the planning commission is required to decide under this chapter and refer such applications to the planning commission for determination.
- (2) Receive and review for completeness all applications for appeals, variances or other matters that the board of zoning appeals (BZA) is required to decide under this chapter and refer such applications to the BZA for determination.
- (3) Receive and review information and recommendations regarding site plans from other municipal departments and relevant sources and refer such information and recommendations to the planning commission for consideration.
- (4) Implement any court orders and the decisions of the planning commission, BZA and city council.
- (5) Conduct inspections of buildings and premises as necessary to enforce the provisions of this chapter.

(Ord. No. 1087, § 17.02, 3-8-10)

Sec. 24-393. - Use of consultants.

When reasonably necessary, the planning commission and city council may employ planning, engineering, legal, traffic or other special consultants, at the applicant's expense, to assist in the review of special land use permits, site plan applications, rezoning applications or other matters related to the planning and development of the city.

(Ord. No. 1087, § 17.03, 3-8-10)

Sec. 24-394. - Public hearings.

In instances where a public hearing is required under this Ordinance before the planning commission, BZA or city council, written notice of the public hearing shall be as follows:

- (1) The notice shall do all of the following:
 - a. Describe the nature of the request.
 - b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - c. State when and where the request will be considered.
 - d. Indicate when and where written comments will be received concerning the request.
- (2) Notice shall be published and mailed at least 15 days prior to the public hearing as follows:
 - a. Notice of the request shall be published in a newspaper of general circulation in the city.
 - b. Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.
 - c. Notice shall also be sent to all persons to 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 structure is located in the zoning jurisdiction. 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 persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, 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. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
 - d. The notice under subsection 24-394(c) is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States Postal Service or other public or private delivery service.
- (3) Public hearings for an amendment to this chapter or the zoning map that affects more than ten properties shall only require notice in a newspaper. Such notice shall not be required to indicate the property subject to the request under subsection (1)a. above and shall not be required to be mailed to individual properties under subsections (2)b. and c. above.
- (4) Public hearings for ordinance interpretations and appeals of administrative decisions by the BZA shall only require notice in a newspaper as required in subsection (1)b. above. If the interpretation or appeal of an administrative decision involves a specific property, notice shall also be given to the person bringing the appeal, as required in subsection (2)b. above. Variances shall require full notification under subsections (2)a., b. and c. above.

(Ord. No. 1087, § 17.04, 3-8-10)

Sec. 24-395. - Fees.

- (a) The city council shall establish a schedule of fees, charges and expenses and a collection procedure for building permits, certificates of occupancy, inspections, appeals and other matters pertaining to this chapter. The schedule of fees shall be posted in the City Hall and may be altered or amended only by the city council.
- (b) Permits, certificates, special land use approvals or variances shall not be issued unless and until such costs, charges, fees or expenses have been paid in full.
- (c)

Publication costs for advertisement of public hearings and for mailing of notices as required under the provisions of this chapter shall be charged to the applicant as part of the application fee. All other costs incurred by the city in administering an application under this chapter shall be charged to the applicant in the amount of such actual cost.

(Ord. No. 1087, § 17.05, 3-8-10)

Sec. 24-396. - Violations and penalties.

- (a) Uses of land, buildings or structures, erected, altered, razed or converted in violation of this chapter are declared to be nuisances per se. The owner and/or agent in charge shall be deemed responsible for maintaining a nuisance and the nuisance shall be abated.
- (b) Anyone violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor punishable by a fine of not more than \$500.00 and/or imprisonment for not more than 90 days, plus costs of prosecution as allowed by law. Each day that a violation is permitted to exist shall constitute a separate offense. An adjudication of guilty shall not exempt the offender from compliance with the requirements of this chapter.

(Ord. No. 1087, § 17.06, 3-8-10)

Secs. 24-397—24-420. - Reserved.

ARTICLE XVIII. - BOARD OF ZONING APPEALS (BZA)

Sec. 24-421. - Authority.

This chapter establishes a board of zoning Appeals (BZA), the membership, powers, and duties of which are prescribed in the Zoning Enabling Act, as amended.

(Ord. No. 1087, § 18.01, 3-8-10)

Sec. 24-422. - Membership.

- (a) The BZA shall consist of seven (7) members. All members shall be residents of the City of Ferndale for a period of not less than one year prior to their appointment. The members shall each be appointed by city council for a term of three years. City council may remove a member, after a public hearing, due to nonperformance of duty or misconduct in office. Any vacancy on the BZA shall be filled within 30 days; this member shall serve for the remainder of the unexpired term. If the remaining unexpired term is less than 90 days, the position may remain vacant until the term expires.
- (b) Alternates. The city council may also appoint two alternate members to the BZA. Appointments of alternate members shall be for a term of three years. The alternate members shall:
 - (1) Be called by the city clerk to serve in the place of a regular member for the purpose of reaching a decision in a case in which the regular member has abstained for reasons of conflict of interest or due to an absence of a regular member. The particular alternate member contacted and attending for a particular case shall serve in the appeal until a final decision has been made. The city clerk shall attempt to rotate contacting and scheduling between the alternate members when a regular member is unavailable or when a conflict arises in a particular case.
 - (2) Alternate members, participating in a particular case in place of a regular member, shall have the same voting rights as a regular member of the BZA.
- (c) Members of the BZA or alternates shall be removable by the city council for non-performance of duty or misconduct in office, upon filing of written charges and after public hearing.
- (d) A member shall disqualify themselves from a vote in which the member has a conflict of interest. Failure of a member to disqualify themselves from a vote in which the member has a conflict of interest constitutes malfeasance in office. Any planning commissioner or city council member on the BZA shall abstain from any vote on an issue which they have previously voted upon as a member of the planning commission or city council.

(Ord. No. 1087, § 18.02, 3-8-10)

Sec. 24-423. - Officers.

- (a) The chair and vice chair of the BZA shall be elected annually by the members of the BZA.
- (b) The city clerk or their designee shall be the secretary of the BZA. The secretary of the BZA shall keep minutes of the proceedings showing members present and absent and the vote or abstention of each member upon each question and shall keep all minutes of hearings and other official actions.
- (c) The city attorney shall act as legal counsel for the BZA and shall be present at meetings upon request by the director.

(Ord. No. 1087, § 18.03, 3-8-10)

Sec. 24-424. - Meetings.

- (a) Regular meetings of the BZA shall be called by the chair or the director in response to appeals filed with the city clerk.
- (b) The BZA shall not conduct business unless a majority of the full membership is present.
- (c) The concurring vote of a majority of the full membership of the BZA is 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 the BZA is required to pass under an ordinance or to affect a variation in an ordinance. Each member of the BZA shall have one vote.

(Ord. No. 1087, § 18.04, 3-8-10)

Sec. 24-425. - Powers and duties.

The BZA is a body of limited powers. The BZA shall have the power to act on matters as provided in this chapter and Zoning Enabling Act, as amended. Nothing contained in this chapter shall be construed to give or grant the BZA the power or authority to amend the zoning ordinance or to disregard its provisions or to rezone parcels of land. The specific powers of the BZA are to:

- (1) Interpret this chapter and the zoning map whenever a question arises in the administration of this chapter as to its meaning or intent. Any interpretations shall carry out the intent and purpose of this chapter, the zoning map and the master plan and shall be made in accordance with commonly accepted rules of construction for ordinances and laws in general.
- (2) Hear and decide appeals and review any order, requirement, decision or determination made by an administrative official or body charged with the enforcement of this chapter, including the director, the building department and the planning commission, other than special land use or planned unit development applications. The BZA may reverse or affirm, in whole or in part, or may modify the decision and make a determination as, in the BZA's opinion, should have been made, and to that end, shall have all the powers of the officer or body from whom the appeal is taken.
- (3) Hear and decide matters referred to it, and as regulated in this chapter. The BZA shall decide the appeal within a reasonable time.
- (4) Grant variances as provided by section 24-427. Variances.

(Ord. No. 1087, § 18.05, 3-8-10)

Sec. 24-426. - Standards for review.

In deciding appeals, the BZA shall find all of the following:

- (1) The action proposed will impair adequate supply of light and air to adjacent properties; increase the danger of fire; unreasonably diminish or impair established property values within the surrounding area; harm the environment; or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the city.
- (2) The action proposed will be compatible with adjacent uses and whether its height, location, size and character will be in harmony with the appropriate and orderly development of the surrounding neighborhood.
- (3) The action proposed will unreasonably increase congestion on public streets or make vehicular and pedestrian traffic more hazardous than is normal for the district involved taking into account sight distances, traffic flow, provisions for pedestrian traffic and minimization of potential traffic conflicts.
- (4) The action proposed will create a nuisance.
- (5) The plight of the applicant results from special or unique circumstances peculiar to the property and not from general neighborhood conditions.
- (6) The alleged hardship has been created by the applicant or any person having a current interest in the property.

(Ord. No. 1087, § 18.06, 3-8-10)

Sec. 24-427. - Variances.

- (a) If there are practical difficulties associated with carrying out this chapter, the BZA may, in deciding appeals, grant a variance in any of its rules or provisions relating to the construction of or structural changes to equipment, buildings or structures so that the spirit of this chapter shall be observed, public safety secured and substantial justice done.
- (b) In granting a variance, the BZA shall state the grounds upon which it bases its decision as dictated by the considerations outlined below. Granting of a variance by the BZA shall not constitute an assurance that a building permit will be issued.
- (c) Nonuse or dimensional variances. The applicant must present substantial evidence to show that if this chapter is applied strictly, practical difficulties to the applicant will result. To receive a nonuse or dimensional variance, the applicant must prove that all of the following conditions have been met:
 - (1) Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density will unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
 - (2) The intent and purpose of this chapter will be observed and substantial justice will be done.
 - (3) A lesser variance than that requested would not give substantial relief to the owner of the property or be more consistent with justice to other property owners.
 - (4) The standards set forth in section 24-426, Standards for review are satisfied.

(Ord. No. 1087, § 18.07, 3-8-10)

Sec. 24-428. - Procedure for appeal.

- (a) An aggrieved person or entity may file an appeal with the city clerk on a form supplied by the city. The notice of appeal shall be accompanied by a fee in an amount determined by the city council. The officer or body from whom the appeal is taken shall immediately transmit to the BZA all the documentation constituting the record upon which the action appealed from was taken.
- (b) An appeal shall be filed within 30 days of the date of the order, determination or decision appealed from, or, if the appeal is from a decision of a public body, within 30 days of the date of the approval of the minutes of the public meeting at which the decision was made.
- (c) The BZA shall consider an appeal within a reasonable time. The city clerk shall fix a reasonable time for a hearing upon receipt of a notice of appeal and shall schedule a public hearing in accordance with section 24-394, Public hearings.
- (d) An applicant may appear in person at the appeal or be represented by an agent or attorney. The BZA shall review all documentation submitted constituting the record upon which the action appeal was taken.
- (e) All decisions of the BZA shall be in the form of an approved motion or resolution reciting the facts and findings of the BZA. The applicant and the officer or body appealed from shall be advised of the BZA's decision through a written communication within 14 days of the appeal hearing.
- (f) Any variance granted by the BZA shall expire and be of no effect one (1) year following the date of approval unless construction has begun on the property. The approval shall remain valid only as long as the information provided to the BZA is found to be correct and the conditions upon which the decision was based are maintained.
- (g) An appeal shall stay all proceedings of the action appealed unless the officer or body from which the appeal is taken certifies to the BZA, in writing, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would in the opinion of the officer or body cause imminent peril to life or property. If such a certification is filed, the proceedings shall only be stayed by a restraining order. A restraining order may be granted by the BZA or by the circuit court, on application, on notice to the officer or body from whom the appeal is taken and on due cause shown.
- (h) An applicant shall not resubmit a request for appeal that the BZA has denied wholly or in part for a period of one year following the effective date of the decision by the BZA, except where the BZA determines that there is a substantial change in circumstances. Applications for rehearing shall be subject to the same rules and requirements as an original appeal. In the event that the BZA grants a request for reconsideration, the time period to appeal the BZA's decision to circuit court shall commence thirty (30) days after the date of the BZA's written decision on reconsideration.
- (i) The decisions of the BZA shall be final. A person, officer, department, BZA or bureau of the city having an interest aggrieved by this chapter or by a decision of the BZA shall have the right to appeal to the circuit court. Such appeal must be taken within 30 days after the date of the BZA's written decision.

(Ord. No. 1087, § 18.08, 3-8-10)

Sec. 24-429. - Violations.

Any violation of this article, including any improvement not in conformance with any variance granted, shall be deemed a violation of this chapter as provided in section 24-396. Violations and penalties shall be subject to all applicable penalties.

(Ord. No. 1087, § 18.09, 3-8-10)

Secs. 24-430—24-450. - Reserved.

ARTICLE XIX. - DEFINITIONS

Sec. 24-451. - Rules applying to text.

Unless the context clearly indicates the contrary, the following rules shall apply to the text and language of this chapter:

- (1) The particular shall control the general.
- (2) In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
- (3) The word "shall" is mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense shall include the future, words used in the singular number shall include the plural, and the plural shall include the singular.
- (5) The word "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."
- (6) Any word or term not defined below shall be interpreted according to its common meaning or usage.
- (7) If the meaning of this chapter is unclear in a particular circumstance, then the individual or body charged with interpreting or applying this chapter shall construe the provision to carry out the intent of this chapter if the intent can be discerned from other provisions of this chapter or law.

(Ord. No. 1087, § 19.01, 3-8-10)

Sec. 24-452. - Definitions A—B.

Abandon. To cease or discontinue a use or activity, excluding temporary or short-term interruptions during periods of remodeling, maintaining or otherwise improving or rearranging a facility; during normal periods of vacation or seasonal closure; during labor-related shutdowns and similar events.

Abutting or Adjacent. Having a common border with or being separated from such a common border by a right-of-way, alley or easement.

Accessory building or structure. A detached building or structure occupied by or devoted to an accessory use on the same lot or parcel of land with, and of a nature customarily incidental and subordinate to, a principal building. Examples may include detached garages, decks, swimming pools, sheds and storage buildings.

Accessory use. A use reasonably and customarily incidental and subordinate to the principal use of the building or structure, or the lot or parcel of land. Accessory uses include, but are not limited to:

- (1) Residential accommodations for servants and/or caretakers.
- (2) Residential swimming pools, hot tubs and saunas.
- (3) Domestic storage in a shed, tool room, or similar accessory building or other structure.
- (4) Storage of merchandise normally carried in stock in connection with a use.
- (5) Storage of goods used in or produced by industrial uses or related activities.
- (6) Off-street parking spaces and loading areas.
- (7) Solar panels, wind generators, television reception antenna and air conditioning units.

Adult businesses. Establishments characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined below, including, but not limited to, adult book, novelty, retail or video stores, adult movie theaters, adult personal service businesses, adult cabarets, and nude modeling studios. These provisions shall not apply to licensed physicians and certified members of the American Massage and Therapy Association and Associated Bodywork and Massage Professionals while practicing within the scope of their license.

- (1) **Adult book, novelty, retail or video store.** A commercial establishment that offers for sale or rental for any form of consideration, as one of its principal business purposes, any one (1) or more of the following:
 - a. Books, data storage devices, magazines or other printed matter or photographs, films, video or other visual representation, recordings or other audio matter which depict or describe sexually explicit activities or specified anatomical areas.
 - b. Instruments, devices novelties or paraphernalia which are designed for use in connection with sexually explicit activities.
 - c. Items, materials, gimmicks or paraphernalia depicting, displaying, advertising or packaged as sexually explicit activities or depicting or describing specified anatomical areas.
 - d. For purposes of this Ordinance, principal business purpose means:
 1. The devotion of a substantial portion of its stock-in-trade or interior floor space, meaning at least 20 percent of the floor area.
 2. The receipt of 20 percent or more of its revenues from the sale of the items listed above.
 3. Other business purposes shall not exempt an establishment from being categorized as an adult book retail, novelty store or video store so long as more than 20 percent of its business includes the offering for sale or rental for consideration of the specified materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
 - e. An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing sexually explicit activities or specified anatomical areas and still be characterized as an adult book store, adult novelty or retail store or adult video store. Such other business purposes will not serve to exempt such an establishment from being categorized as an adult bookstore, adult novelty store or adult video store, so long as the establishment falls within the definition of an adult bookstore, adult novelty store or adult video store.
- (2) **Adult cabaret.** A nightclub, bar, restaurant or similar commercial establishment, whether or not alcohol is served, which regularly features:
 - a. Persons who appear in a state of restricted nudity.
 - b. Live performances characterized by the partial exposure of specified anatomical areas.
 - c. Films, motion pictures, video cassettes, compact discs, slides or other photographic reproductions which are characterized by the depiction or description of sexually explicit activities or specified anatomical areas.
- (3) **Adult movie theater.** An enclosed building used for presenting more than ten percent of its material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein, for observation by patrons therein.
- (4) **Adult personal service establishment.** Any business, agency or service that arranges, solicits or provides, for the benefit of its customers or clients, escorts, dates, models, companions or entertainers, either on or off the premises, for the purpose of engaging in specified sexual activities or displaying specified anatomical areas.
- (5) **Nude model studio.** Any place where a person appears in a state of nudity or displays specific anatomical areas and is provided money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons. This includes modeling studios that provide for nude modeling on an occasional basis, but it does not include a modeling studio whose primary function is to provide art classes as part of a college, university or educational institution that is certified by the State of Michigan.
- (6)

Specified anatomical areas. Less than completely and opaquely covered human genitals, pubic regions, buttock or female breast below a point immediately above the top of the areola; and male genitals in a discernible turgid state, even if completely and opaquely covered.

- (7) *Specified sexual activities.* Human genitals in a state of sexual stimulation or arousal; acts of masturbation, sexual intercourse or sodomy; and fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Alley. Any dedicated public way other than a street that provides a secondary means of access to any property and is not intended for general circulation.

Alteration. Any addition or modification to a building or structure or type of occupancy; any change in the structural members of a building, such as walls, partitions, columns, beams, or girders, stairways, light or ventilation, means of egress and ingress, or any other changes affecting or regulated by the building code, the city's housing code or this chapter. This definition does not include minor repairs or changes not involving any of the above elements.

Amusement arcade. A facility whose principal use is the operation of amusement devices or where eight or more amusement devices are operated.

Amusement device. Any machine, which upon the insertion of a coin, slug, token plate or disc, or payment of a price, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score.

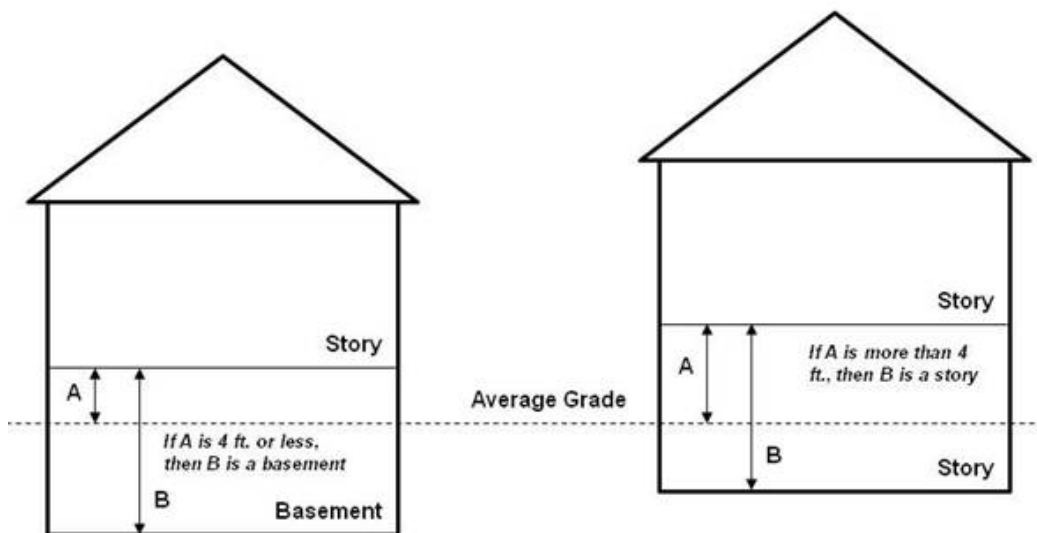
Architectural features. Architectural features of a building or structure shall include, but not be limited to, cornices, eaves, gutters, belt courses, sun shading devices, sills, lintels, bay window, chimneys and decorative ornaments.

Attached building/structure. A building or structure that is attached to a principal building by connection of walls, a foundation and a roof.

Automobile or motor vehicle. Any vehicle, truck under one and one-half ton payload, van or motorcycle, but specifically excluding motorized wheelchairs or other personal transportation devices used by the physically challenged. The phrase "any vehicle" includes automobiles, commercial vehicles and motorized recreational vehicles as those terms are defined in this article.

Banquet hall. A facility whose principal use is to be rented out for gatherings, with or without food and beverage service, and which may allow live entertainment and dancing.

Basement. That portion of a building having less than four feet above finished grade.



Bed and breakfast. A use that is accessory to the principal use of a building by its operators as a single-family dwelling in which guests are provided a sleeping room and breakfast in return for compensation for periods of 14 days or less. These facilities shall contain no more than six sleeping rooms for compensation.

Block. The abutting properties on one side of a street and lying between the two nearest cross streets, or between one intersecting street and a railroad right-of-way, or any other barrier to the continuity of development.

Board of zoning appeals (BZA). The board of zoning appeals for the City of Ferndale.

Boarding house. A building other than a lodging facility, multiple family dwelling, hotel or motel, where lodging or lodging and meals is provided in return for compensation.

Body decorating salon. A facility having as its principal activity the applying, decorating or placing of permanent marks upon or under the skin by any method including, but not limited to, ink or any other substance resulting in the coloration or scarring by the aid of needles, blades or any other instrument designed to touch, cut, burn, pierce or puncture the skin.

Building. Any structure having a roof supported by columns or walls.

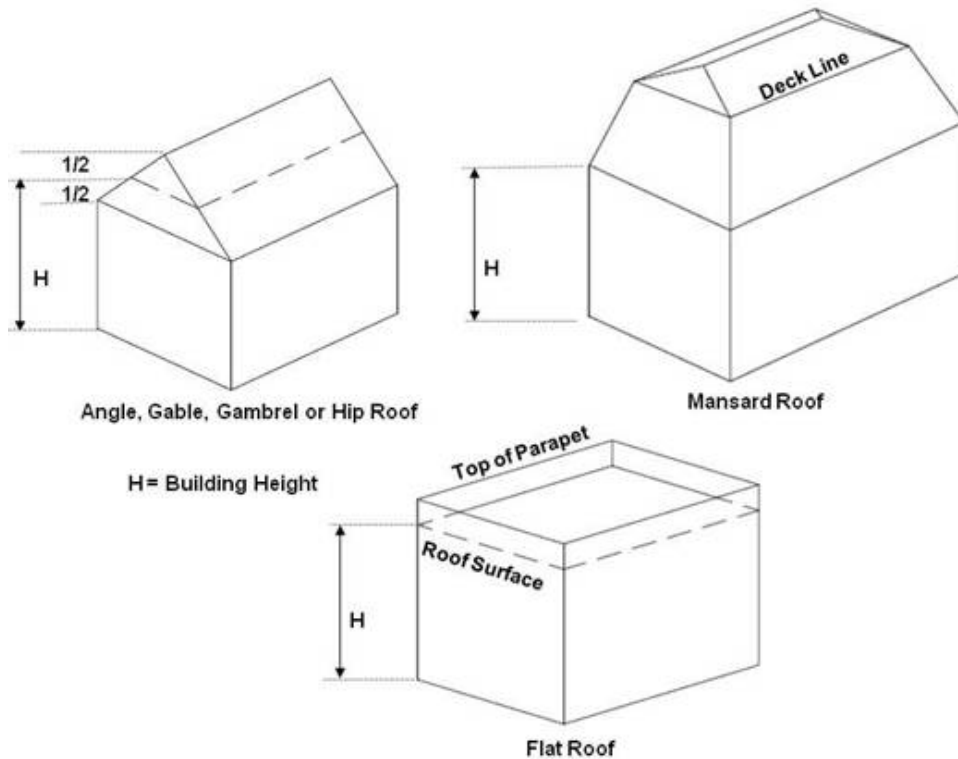
Buildable area. The space remaining on a lot after the minimum open space and setback requirements of this Ordinance have been met.

Building code. Any code regulating building construction in the City of Ferndale.

Building height. Where a building is situated on sloping terrain, its height shall be measured from the average level of the finished grade at the building wall.

- (1) *Flat roof.* The vertical distance measured from the finished grade level to the highest point of the roof surface.

- (2) *Mansard roof*. The vertical distance measured from the finished grade level to the deck.
- (3) *Gable, hip, angled and gambrel roofs*. The vertical distance measured from the finished grade level to the mean height level between eaves and ridges.



Building setback line. The line established by the minimum required setbacks that delineate the area within a lot or parcel of land on which a building may be located.

Building permit. An official document issued by the city which grants permission to a contractor, individual or entity to erect or alter a building or structure.

Business and technical school. A facility whose principal use is teaching culinary, health and medical (medical assistant, occupational, physical or speech therapist, etc), computer, cosmetology, broadcast/media, business, legal, creative (commercial art, fashion, graphic art, video, web design, CAD, visual and fine art) skills, generally in an office setting.

(Ord. No. 1087, § 19.02, 3-8-10)

Sec. 24-453. - Definitions C-D.

Carport. A roof projecting from a building, or a freestanding structure without walls, used as a shelter for a vehicle or recreational vehicle.

Cemetery. A parcel of land intended for the burial of multiple deceased humans (or pets within pet cemeteries). Cemeteries may include columbariums and mausoleums.

Change of use. A use that changes which affects any of the usual elements involved with site plan review i.e. parking, drainage, circulation, landscaping, signage and building arrangement.

Churches, temples and other places of worship. A site used for or intended for the regular assembly of persons for the conducting of religious services and accessory uses. Such accessory uses may include rectories, living quarters for ministry and other members of the religious order who carry out their duties primarily on the site, religious education classes, day care, playgrounds, religious office space, counseling, youth centers and other similar activities. Rescue missions, tent revivals and other temporary assemblies are not included in this definition.

City. The City of Ferndale.

City council. The city council of the City of Ferndale.

Commercial use. The use of property for retail sales, office use or similar businesses where goods or services are sold or provided directly to the consumer. As used in this Ordinance, commercial use shall not include industrial, manufacturing or wholesale businesses.

Commercial vehicle. Any truck over one and one-half-ton payload and any vehicle or trailer, with or without an attached delivery body, used to transport people, equipment, materials or supplies for commercial purposes and which requires commercial license plates. Commercial vehicles include but are not limited to:

- (1) Truck tractor.
- (2) Semi-trailer, which shall include flat beds, stake beds, roll-off containers, tanker bodies, dump bodies and full or partial box-type enclosures.
- (3) Vehicles of a type that are commonly used for the delivery of ice cream, milk, bread, fruit or similar vending supply or deliver trucks. This category shall include vehicles of a similar nature which are also of a type commonly used by electrical, plumbing, heating and cooling, and other construction oriented contractors.
- (4) Tow trucks.
- (5) Commercial hauling trucks.

- (6) Vehicle repair service trucks.
- (7) Snow plowing trucks.

Compatibility. The characteristics of different uses or activities that permit them to be located near each other in harmony and without conflict.

Condominium. A development containing residential, commercial, office, industrial or other structures or improvements permitted in the zoning district where it is located in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed and shared rights to associated general common elements, as described in the master deed. The following additional definitions are provided:

- (1) *Condominium Act.* State of Michigan Public Act 59 of 1978, as amended.
- (2) *Condominium documents.* The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.
- (3) *Condominium lot.* The condominium unit and the contiguous limited common elements surrounding the condominium unit, which shall be the counterpart of "lot" as used in connection with a project developed under the Land Division Act, as amended.
- (4) *Condominium subdivision plan.* Drawings and information that show the size, location, area and boundaries of each condominium unit; building locations; the nature, location and approximate size of common elements; and other information required by Section 66 of the Condominium Act.
- (5) *Condominium unit.* The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.
- (6) *General common element.* Area designated for the use of all co-owners, including yards, foundations, basements, floors, walls, hallways, stairways, elevators and all other elements of the condominium project intended for common use or necessary to the existence, upkeep and safety of the project.
- (7) *Limited common element.* Area reserved in the master deed for the exclusive use of less than all of the co-owners.
- (8) *Master deed.* The document recording the condominium project, including the bylaws and the condominium subdivision plan for the project, and all other information required by the Condominium Act, as amended.

Construction equipment. Equipment required for the demolition, excavation, repair or construction of any building or structure or the transport of construction materials.

Curb cut. An opening from the public street to a private driveway or public drive serving an individual site or group of sites.

Deck. An accessory platform structure that is open and unenclosed by a roof or walls, either freestanding or attached to the principal structure that is supported by posts.

Density. The number of dwelling units situated on or to be developed per net acre of land, exclusive of right-of-ways.

Detention/retention pond. An artificially created pond or basin that holds collected storm water. A detention pond has an outlet that releases water at a controlled rate. Detention basins are designed to reduce how quickly runoff enters our natural waterways to protect downstream areas from flooding and erosion. Retention ponds are designed to hold water until it infiltrates the soil or evaporates without an outlet to a drainage way, except emergency overflows. Where this chapter specifies requirements or restrictions on detention ponds, these regulations shall also apply to retention ponds, and vice versa.

Development. The construction of a new building or other structure on a lot, the relocation of an existing building on another lot, or a new use of land.

Director. The director of the community development department or their designee.

District. A portion of the city within which certain uses, buildings and structures are permitted and within which certain regulations and requirements apply under the provisions of this chapter.

Drive-through facility. A facility where patrons are served in their vehicles.

Dwelling. A building or portion of a building which is used principally as a residence, including:

- (1) *Apartment.* An attached dwelling unit with common walls, contained in a building with other dwellings or uses, typically accessed by a common stair landing or walkway.
- (2) *Efficiency unit.* A dwelling consisting of one room containing living, sleeping and kitchen facilities and a separate bathroom.
- (3) *Live/work.* A multi-story dwelling unit wherein the first floor is designed as a storefront for retail, service, office or artisan studio and the upper floors as one or more dwellings. The live/work unit shall be designed as an integral unit with interior stairway connections between floors. The first floor storefront shall be owned and operated by the occupant an upper floor dwelling. Live/work dwellings may be attached to similar dwelling units with common walls, each with a separate entryway with direct access to the outdoors at ground level.
- (4) *Manufactured dwelling.* A building or structure constructed in accordance with state or federal laws that is pre-constructed and transported to the building site.
- (5) *Multiple-family dwelling.* A building designed for and occupied by three or more families in separate units, living independently of each other.
- (6) *Single-family dwelling.* A building containing not more than one dwelling unit entirely surrounded by open space on the same lot.
- (7) *Single-family attached dwelling.* A building designed for and occupied by three or more families living independently of each other in separate units with shared common walls and a ground floor entry for each individual unit, also called townhomes or rowhouses.
- (8) *Two-family dwelling.* A single building designed for or occupied exclusively by two families living independently of each other, also called a duplex.

(Ord. No. 1087, § 19.03, 3-8-10)

Sec. 24-454. - Definitions E-F.

Easement. The right to use the property of another for purposes of ingress, egress, utilities, drainage or similar uses. Structures, buildings or similar uses shall not be constructed over a public easement without express written approval of city.

Essential services. The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems; communication, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes; traffic signals and hydrants; but not including substations or buildings that are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare. Wireless communication towers, devices and facilities are not defined as an essential service.

Façade. The exterior wall(s) of a building exposed to public view. The façade shall include the entire building walls, including wall faces, parapets, fascia, windows, doors, canopies and visible roof structures.

Family. For the purposes of this chapter, a family shall include a domestic or a functional family as defined below:

- (1) **Domestic family.** One or more people living together as a single domestic, housekeeping unit, related by blood, marriage or adoption, with no more than one additional unrelated person living on the premises.
- (2) **Functional family.** People living together as a single domestic, housekeeping unit whose relationship is of a permanent and distinct character with demonstrable and recognizable bonds which constitute the functional equivalent of the bonds which render a domestic family a cohesive unit. There shall be a rebuttable presumption, enforceable by the director, that the number of unrelated people who may reside together as a functional family shall be limited to four unrelated persons.

Fence. A structure erected to act as a boundary marker or erected for the purpose of restricting access to or from a lot or parcel of land, whether enclosing all or part of the lot or parcel.

Floor area. The sum of the gross horizontal areas of each story, floor or level of a building measured from the exterior faces of the exterior walls or from the center line of common walls separating two buildings.

- (1) In the case of residential uses, the areas of unfinished attics, breezeways, unenclosed porches and basements are excluded.
- (2) In the case of non-residential uses, the areas of common or multi-tenant hallways, stairways, stairwells, elevator shafts, toilet rooms, mechanical equipment rooms, basements and vaults are excluded.

Frontage. A lot line facing a public street or an approved private street.

Fuel dispensing unit. A device for pumping fuel into a maximum of two motor vehicles.

(Ord. No. 1087, § 19.04, 3-8-10)

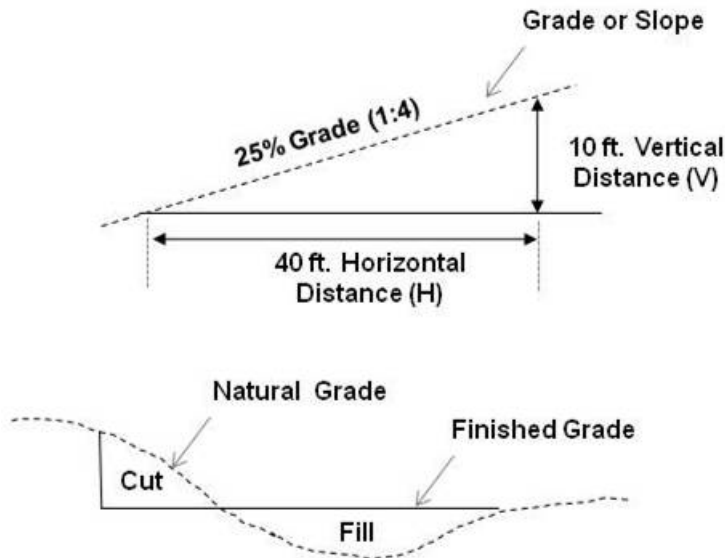
Sec. 24-455. - Definitions G-H.

Garage. An accessory building or portion of a principal building designed or used primarily for the storage of any vehicle owned or used by the occupants of the building to which it is accessory.

Gazebo. A permanent roofed or sheltered structure that consists generally of open, screened or lattice-work construction that may be used for outdoor seating but is not designed for year-round use.

Grade. The degree of rise or descent of a sloping surface.

- (1) **Grade, finished.** The degree of rise or descent of the final elevation of the ground surface at the highest point of ground contacting any portion of the basement or foundation of a building after development.
- (2) **Grade, natural.** The degree of rise or descent of the elevation of the ground surface in its natural state, before man-made alterations.



Green. See Sustainable.

Gross dissimilarity. An immediately obvious difference including, but not limited to, roof pitch, materials, architectural style and details and fenestration.

Health or fitness club. A facility whose principal use is the provision of exercise equipment, facilities or classes for use by members for compensation.

Home occupation. Any use primarily conducted entirely within a dwelling and carried on entirely by its inhabitants that is clearly incidental and secondary to the principal use of the dwelling as a residence and does not change its character. Activities not deemed to be home occupations include, among others, medical clinics, barber shops, nurseries, day medical clinics, day care centers, beauty parlors, tea rooms, veterinarian's offices, animal hospitals, kennels and professional offices where clients visit the premises (i.e. insurance, real estate, lawyer).

Hospital. A facility licensed by the State, including hospices, which provides in-patient and out-patient medical and surgical services and which may include related facilities such as laboratories, medical testing services, central service facilities and staff offices.

Hotel. A lodging facility with a common entrance or entrances containing rooms with individual bathrooms that may have general kitchen and common dining room or restaurant facilities. See also "motel" and "lodging facility."

(Ord. No. 1087, § 19.05, 3-8-10)

Sec. 24-456. - Definitions I-J.

Impervious surface. Man-made material that covers the surface of land and substantially reduces the infiltration of storm water to a rate of five percent or less. Impervious surfaces include, but are not limited to, pavement, buildings and structures.

Junk vehicle. Any motor vehicle that has been, for more than three weeks, inoperative, in a state of disassembly, disrepair, stripped, dismantled, undergoing major overhaul or body work or that fails to comply with the state motor vehicle code related to registration or licensing.

Junk yard. An area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to: scrap iron and other metals, paper, rags, rubber tires and bottles.

(Ord. No. 1087, § 19.06, 3-8-10)

Sec. 24-457. - Definitions K-L.

Kennel. A facility where dogs, cats or other domestic pets are boarded, bred or cared for in return for remuneration or are kept for the purpose of sale. A kennel shall also mean the keeping of more than three dogs, three cats or three other domestic pets or a total of more than six domestic pets over the age of six weeks. Kennels are prohibited in the city except in connection with a veterinary or pet grooming establishment.

Land Division Act. Michigan Public Act 288 of 1967, as amended (MCL 560.101).

Landscaping. The treatment of the ground surface with live plant materials normally grown in Oakland County such as, but not limited to, grass, ground cover, trees, shrubs, vines and other live plant material. In addition, a landscape design may include other decorative natural or processed materials, such as wood chips, crushed stone, boulders or mulch. Structural features such as fountains, pools, statues and benches shall also be considered a part of landscaping if provided in combination with live plant material.

- (1) *Berm.* A mound of earth landscaped with living plant materials which blends with the surrounding terrain.
- (2) *Buffer.* A landscaped area composed of a greenbelt and a wall established and/or maintained to provide visual screening, noise reduction or transition.
- (3) *Caliper.* The diameter of a tree trunk measured as follows:
 - a. Existing trees are measured at four and one-half feet above the average surrounding grade.
 - b. Trees which are to be planted shall be measured 12 inches above the base of the tree if the tree caliper is more than four inches, or if the tree caliper is less than four inches, it shall be measured at six inches above the base of the tree.
- (4) *Diameter at breast height (dbh).* The circumference of a tree measured at four and one-half feet above grade.
- (5) *Greenbelt.* A strip of land, from property line to property line, located between the property line and the front of the building or parking setback line dedicated to the planting of shrubs, trees or grasses to serve as an obscuring screen or buffer between the property and the adjacent street.
- (6) *Ground cover.* Low-growing plants or sod that in time form a dense mat covering the area, preventing soil from being blown or washed away and the growth of unwanted plants.
- (7) *Hedge row.* A two- to three-foot tall row of evergreen or deciduous shrubs that are planted close enough together to form a solid barrier.
- (8) *Opacity.* The state of being at least 80 percent impervious to sight.
- (9) *Ornamental tree.* A deciduous tree that is typically grown because of its shape, flowering characteristics or other attractive features and that grows to a mature height of 25 feet or less.
- (10) *Screen.* An upright visual barrier such as a fence, wall or opaque landscaping.
- (11) *Shrub.* A self-supporting, deciduous or evergreen woody plant, normally branched near the base, bushy, and less than 15 feet in height.
- (12) *Tree.* A woody plant with an erect perennial trunk, which at maturity is 25 feet or more in height and which has a more or less definite crown of foliage.

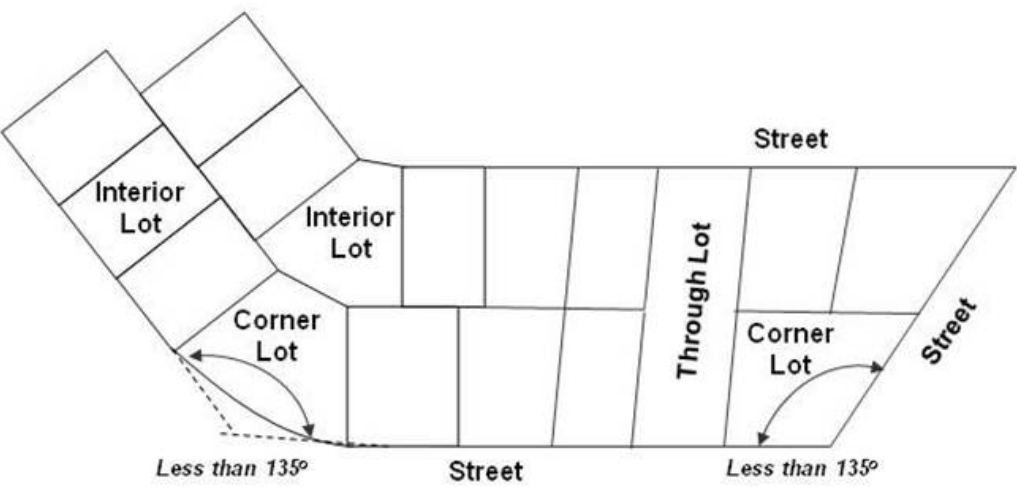
LEED (Leadership in Energy and Environmental Design). Program developed by the USGBC as a baseline for rating sustainable construction against other construction in the same category. System has four levels of achievement: Certified, Silver, Gold and Platinum.

Loading space. An off-street accessory parking space used temporarily for loading and unloading merchandise or materials from commercial vehicles.

Lodging facility. A building or group of buildings designed to provide temporary lodging for compensation including hotels and motels but not including bed and breakfast operations, multiple family dwellings and boarding houses. See also "hotel" and "motel."

Lot. A platted parcel of land, excluding any portion located in a street or other right-of-way. Such a lot shall have frontage on a public street or on an approved private street. The following additional definitions are provided.

- (1) *Lot, buildable.* A lot of sufficient size to meet the minimum requirements of the schedule of regulations for use, coverage, lot area, setbacks and open space in the zoning district in which it is located.
- (2) *Lot, corner.* A lot located at the intersection of two streets or a lot bounded on two sides by a curving street, any two chords of which form an angle of 135 degrees or less. The point of intersection of the street lot lines is the "corner." For a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above.
- (3) *Lot, through or double frontage.* An interior lot having frontage on two roughly parallel streets. In the case of a row of double frontage lots, one street will be designated as the front street for all lots in the plat and in the application for a zoning determination or a building permit.
- (4) *Lot, interior.* A lot with only one lot line fronting on a street.



Lot area. The total area of a platted parcel of land, excluding any portion located in a street or other right-of-way.

Lot coverage. That part or percentage of the lot occupied by buildings or structures including permanent accessory buildings and in-ground swimming pools. Structures such as decks and unenclosed porches that do not extend more than 30 inches above the finished grade of the surrounding area are excluded.

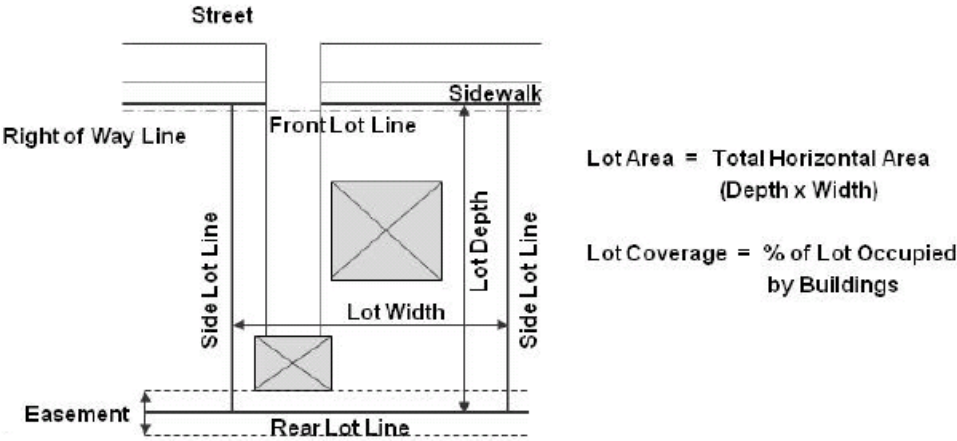
Lot depth. The mean horizontal distance between the front lot line and the rear lot line.

Lot lines. Any line dividing one lot from another or from a public right-of-way, delineating the property lines, including:

- (1) **Front lot line.** In the case of an interior lot, the line between the lot and the public street or approved private street. In the case of a corner lot or a double frontage lot, the line between the lot and the street that is designated as the front street in the plat or application for a zoning determination or a building permit.
- (2) **Rear lot line.** The lot line opposite and most distant from the front lot line. In the case of an irregularly shaped lot, a line ten) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.
- (3) **Side lot line.** All lot lines other than a front or rear lot line.

Lot of record. A lot in existence at the time of adoption of the ordinance from which this chapter derives, the dimensions of which are shown on a subdivision plat of land recorded in the Office of the Register of Deeds for Oakland County, or a lot or parcel described by metes and bounds, the accuracy of which is attested to by a professional engineer or registered surveyor, so designated by the State of Michigan, and said description recorded with the Register of Deeds for Oakland County.

Lot width. The horizontal distance between the side lot lines measured at the two points where the required front setback line intersects the side lot lines. For lots located on the turning circle of a cul-de-sac, the lot width may be reduced to 80 percent of the required lot width.



(Ord. No. 1087, § 19.07, 3-8-10)

Sec. 24-458. - Definitions M-N.

Major project. A development larger than two acres or 25,000 square feet.

Manufactured home. A detachable single-family dwelling prefabricated on its own chassis, intended for long-term occupancy and designed to be transported on its own wheels or flatbed to the site where it is to be occupied as a complete dwelling without a permanent foundation. The unit shall contain sleeping accommodations, a flush toilet, a wash basin, a tub or shower, kitchen and living quarters.

Manufactured home park. Any parcel of land intended and used to accommodate more than one manufactured home for living use, which is offered to the public for that purpose; including any structure, facility, area, or equipment used or intended for use by park management or residents.

Manufacturing. A facility whose principal use is the physical, mechanical or chemical transformation of materials or substances into new products including assembling, making, preparing, inspecting, finishing, treating, altering or repairing, or the blending of materials such as oils, plastics or resins.

Massage establishment. A facility that complies with the requirements of the Massage Establishment Licensing Regulations in the Ferndale Code of Ordinances, as amended.

Master plan. The comprehensive long-range plan, adopted by the planning commission and city council, intended to guide growth and development within the city and that includes analysis, recommendation and proposals for the community's population, economy, housing, transportation, community facilities and land use.

Medical marihuana facility. A facility where primary caregivers and/or qualified patients, who are legally registered by the Michigan Department of Community Health (MDCH), may lawfully assist qualified patients, also legally registered by the MDCH, concerning the evaluation, counseling and acquisition of medical marihuana in accordance with the Michigan Medical Marihuana Act, as amended. A use purporting to be engaged in the medical use of marihuana prior to enactment of the Michigan Medical Marihuana Act or prior to being legally registered by the MDCH, shall be deemed to not be a legally established use and not entitled to legal nonconforming status under the provision of this ordinance and under state law. The facility shall not include a club, café or other design that permits consumption of medical marihuana at the facility.

Medical marihuana grow operation. A use, in accordance with the Michigan Medical Marihuana Act, as amended, for the growing, cultivation, planting and manufacturing of medical marihuana.

Mezzanine. An intermediate floor between stories occupying but not exceeding one-third of the floor area of the story directly below.

Motel. A lodging facility containing rooms with direct access to the outside and individual bathrooms. Rooms may contain cooking facilities. A motel may also contain a common dining or restaurant facility. See also "hotel" and "lodging facility."

Nonconforming building or structure. A building or structure lawfully existing at the effective date of the ordinance from which this chapter derives, as amended, which does not conform to the provisions of the zoning district in which it is located.

Nonconforming lot. A lot of record, lawfully in existence on the effective date of the ordinance from which this chapter derives and any amendments thereto, which no longer meets the dimensional requirements of the zoning district in which it is located.

Nonconforming use. A use which lawfully occupied a building or structure or parcel of land at the effective date of the ordinance from which this chapter derives, as amended, which does not conform to the use regulations of the zoning district in which it is located.

Novelty store. A retail establishment which includes as part of its merchandise for sale to the general public: equipment, products or materials that may be used as drug paraphernalia, including pipes, bongs, clips, scales, sifter, rolling papers, spoon and other items that may be classified and defined as drug paraphernalia in the Public Health Code, being MCL 333.7451, as amended.

Nuisance. An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to, noise, dust, smoke, odor, glare, fumes, flashes, vibration, shock waves, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people, particularly at night, passenger traffic, invasion of non-abutting street frontage by traffic, a burned-out structure, a condemned structure.

(Ord. No. 1087, § 19.08, 3-8-10; Ord. No. 1097, Pt. I, 8-23-10; Ord. No. 1126, Pt. I, 7-9-12)

Sec. 24-459. - Definitions O-P.

Off-street parking. See "parking lot."

Open air business uses. Outdoor business uses having a permanent building or structure on the premises, including:

- (1) Retail sale of garden supplies and equipment, including but not limited to trees, shrubbery, plants, flowers, seed, topsoil, compost, fertilizer, trellises, lawn furniture and playground equipment.
- (2) Retail sale of fruit and vegetables.
- (3) Retail sale of building and lumber supplies.
- (4) Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement parks or similar recreation uses.
- (5) Outdoor display and sale of garages, swimming pools and similar items.
- (6) Outdoor sales and rental of motor and recreational vehicles, lawn care equipment, construction equipment and similar uses.

Parking lot, accessory or off-street. A structure or a tract of land other than a driveway, street or other right-of-way, designed and used for parking or storage of any vehicle by the occupants, employees and patrons of the building or premises to which it is accessory.

Parking lot, public. A structure or a tract of land, other than an accessory parking lot, street or other right-of-way, designed and used for parking or storage of any vehicle by the general public, whether or not for remuneration.

Parking space. One unit of a parking area, exclusive of driveways, aisles, stacking spaces or access lanes.

Parking structure. A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed including parking garages, deck parking and underground or under building parking areas. A parking structure can be the primary structure or accessory to another use.

Paved. An impervious surface constructed out of asphalt, concrete or similar material.

Pawnbrokers. A person, corporation or other entity that loans money on deposit or pledge of personal property or other valuable items, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable items on condition of selling the same back at a stipulated price.

Pawnshop. A facility where a pawnbroker conducts business.

Pet boarding facility. A pet boarding facility is a business for the temporary boarding and care of common household pets, including dogs and cats. Pet boarding facilities may provide related services, including grooming or training, but no animals may be bred or sold at a pet boarding facility unless the pet boarding facility is accessory to a principal retail use. Pet boarding facilities may be accessory to a veterinary office or hospital.

Planned unit development. An area of land in which a variety of residential, commercial and/or industrial uses are planned and developed as a whole, according to comprehensive and detailed plans with more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under these regulations.

Planning commission. The planning commission of the City of Ferndale as established under provisions of the Michigan Zoning Act.

Principal building or structure. The main building or structure where the primary use is conducted.

Principal use. The primary use of a lot, parcel of land, building or structure.

Private club. A fraternal organization, lodge or similar use, which may provide food and beverage service, live entertainment, dancing and rental facilities to members.

Public building. A building that is open to the general public, including meeting halls, libraries, clubhouses, religious buildings, museums, cultural societies, visual and performance arts buildings, municipal buildings and community buildings that are administered by nonprofit cultural, educational or religious organizations.

Public utility. Any person, firm, corporation, municipal agency, board or commission authorized under federal, state, county or municipal regulations to furnish electricity, gas, communications, transportation, water or sewer services. Privately-owned wireless communication facilities are not considered public utilities.

(Ord. No. 1087, § 19.09, 3-8-10; Ord. No. 1129, Pt. I, 7-9-12)

Sec. 24-460. - Definitions Q-R.

Recycling facility. A facility that collects, sorts, compacts, crushes, bales or reloads materials for reprocessing, reuse or remanufacture. See also "reuse facility."

Recreational vehicle. A vehicle which moves one or more persons over the ground, water, ice or snow and which is either self propelled or connects to a vehicle that is self propelled and all associated trailers and equipment. Recreational vehicles include, but are not limited to:

- (1) ***Boats and boat trailers.*** Boats, personal watercraft, canoes and rafts and the normal equipment to transport them.
- (2) ***Folding tent trailer.*** A canvas folding structure mounted on wheels and designed for travel and vacation use.
- (3) ***Motorized home.*** A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- (4) ***Pickup camper.*** A structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation uses.
- (5) ***Snow mobile and all terrain vehicles.*** Snow mobile and all terrain vehicles and the normal equipment to transport them.
- (6) ***Travel trailer.*** A vehicular, portable structure built on a chassis and designed to be used as a temporary dwelling for travel, recreational and vacation uses.

Restaurant. A facility whose principal business is the sale of prepared food and beverages as defined below.

- (1) ***Restaurant, drive-in.*** Refer to section 7-39 of the City Code of Ordinances.
- (2) ***Restaurant, drive-through.*** A standard restaurant that also sells prepared food or beverages to patrons in motor vehicles, typically through a window, for consumption off the premises.
- (3) ***Restaurant, standard.*** A restaurant that sells prepared food or beverages for consumption on or off the premises. A business establishment whose method of operation involves either the delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building or the prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.
- (4) ***Sidewalk Café.*** Any aggregation of tables, chairs and other appurtenances related to and used for the sale of food and drink on the public sidewalk or public right-of-way adjacent to a building containing a restaurant business owned or leased by the person operating the café.

Retail establishment, large. A facility with a floor area greater than 5,000 square feet that offers merchandise and services for sale.

Retail establishment, small. A facility with a maximum floor area of five thousand (5,000) square feet that offers merchandise and services for sale.

Reuse facility. A facility whose principal use is the collection, sorting, repair, resale or redistribution, on site, of used clothing, furniture, household goods, building materials or tools.

Right-of-way. A legal right of passage over real property typically associated with streets, alleys and railroads.

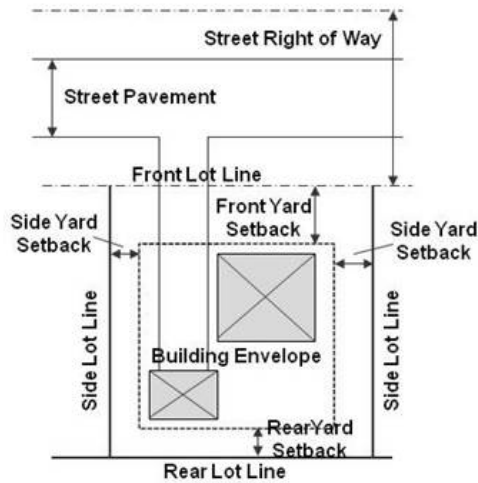
(Ord. No. 1087, § 19.10, 3-8-10)

Sec. 24-461. - Definitions S-T.

Self-storage facility. A facility consisting of a building or a group of buildings in a controlled-access compound where individual stalls or lockers are rented out to different tenants for the storage of goods and wares.

Senior housing. A building or group of buildings containing dwellings intended to be occupied by elderly persons, as defined by the Federal Fair Housing Act, as amended. Senior housing includes independent living arrangements but does not include assisted living facilities or adult foster care facilities regulated by the State of Michigan. Senior housing is designed and operated for use by elderly people who desire and are capable of maintaining an independent household. Such housing may provide services such as security, housekeeping, meals and recreational and social activities. Individual dwellings within such a facility shall contain kitchen facilities and be designed to promote independent living.

Setback. The minimum required horizontal distance between a building or structure and the front, side and rear lot lines.



Shopping center. A group of commercial establishments developed under one site plan and constructed and managed as a total entity. Shopping centers shall provide customer and employee parking on site and loading spaces separated from customer access.

Site plan. A scaled drawing, containing all required information and drawn in compliance with this ordinance, illustrating existing conditions and containing the elements required herein as applicable to the proposed development to ensure compliance with zoning provisions. Site plans must be prepared, signed and sealed by a licensed engineer or registered land surveyor registered in the State of Michigan.

Sketch plan. A drawing containing less information than a site plan, drawn in compliance with this chapter, of a development intended to ensure compliance with zoning provisions. A sketch plan need not be prepared by a licensed professional.

Solar energy system. Any solar collector, other solar energy device or any structural design feature, mounted on a building or on the ground, whose primary purpose is to provide for the collection, storage and distribution of solar energy for space heating or cooling, water heating or electricity.

Solar energy. Radiant energy (direct, diffuse and reflected) received from the sun.

Special land use. A use of land for an activity which, under usual circumstances, could be detrimental to other land uses permitted within the same district but which may be permitted because of circumstances unique to the location of the particular use and which use can be conditionally permitted without jeopardy to uses permitted within such district, subject to special approval by the city council.

Stacking spaces. The off-street parking spaces required in a drive-through facility where customers wait to be served.

State licensed care facilities. A facility for the care of children or adults, as licensed and regulated by the state under Michigan Public Act 11 of 1973 and Michigan Public Act 218 of 1979, and rules promulgated by the State Department of Human Services. State licensed care facilities include:

- (1) **Adult foster care facility.** A facility regulated by the Adult Foster Care Facility Licensing Act, MCL 400.701, et. seq.; MSA 16.610 (61), et. seq., as amended. In accordance with the Michigan Zoning Enabling Act, PA 110 of 2006, being MCL 125.3206, an adult foster care facility providing supervision and/or care to six or less persons shall be considered a residential use of property for zoning purposes and a permitted use in all residential zones and shall not be subject to a special use or conditional use permit or procedure different from those required for other residential dwellings of similar density in the same zone. See also "Assisted living facility and senior housing."
- (2) **Assisted living facility.** A building or group of buildings containing dwellings intended to be occupied by more than six persons needing various degrees of assistance with daily living tasks. This definition includes nursing or convalescent homes, homes for the aged, mentally ill, developmentally disabled or physically handicapped. An assisted living facility does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility or any other facilities which have been exempted from the definition of "adult foster care facility" by the Adult Foster Care Facility Licensing Act, MCL 400.701, et. seq.; MSA 16.610 (61), et. seq., as amended. See also "senior housing."
- (3) **Child foster care facility.** An assisted living facility for children licensed by the State of Michigan pursuant to the Child Protection Law, MCL 722.111 et. seq., as amended.
- (4) **Day care center.** A facility receiving 12 or more children for care and supervision for periods of less than 24 hours at a time where the parents or guardians are not immediately available to the child. See also family day care home and group day care home.
- (5) **Family day care home.** A private home in which fewer than seven minor children are received for care or supervision, for more than four weeks during a calendar year, for periods 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. See also "day care center" and "group day care home."
- (6) **Group day care home.** A private home in which more than six but no more than 12 minor children are received for care or supervision, for more than four weeks during a calendar year, for periods 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. See also "family day care home and day care center."

Story. That portion of a building included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, the space between the floor and the ceiling or roof above it, but excluding mezzanines and basements.

Story, one-half. That portion of a building under a sloping roof having a finished floor area with head room over five feet that does not exceed one-half of the floor area of the floor below.

Street. A public or private thoroughfare, other than an alley, which affords the principal means of access to abutting property. Various types of streets are further defined below:

- (1) *Collector street.* A street used to carry traffic from local streets to arterials. The following streets are collector streets in Ferndale: Ten Mile Road adjacent to I-696.
- (2) *Local streets.* Local streets provide access primarily to individual properties and homes. All streets that are not classified as major streets are considered local streets.
- (3) *Minor arterial streets.* An arterial or collector street which is intended to serve large volumes of traffic for both the immediate municipal area and the region beyond. Minor arterial streets in Ferndale include Nine Mile Road, Livernois Avenue, Pinecrest Drive and Hilton Road.
- (4) *Principal or major arterial street.* A main traffic artery designed to carry long distance, through-travel movements. They also provide access to important traffic generators, such as major airports or regional shopping centers. Principal arterials in Ferndale include Interstate Highway 696, Woodward Avenue and Eight Mile Road.

Structure. A combination of materials that form a construction for use, occupancy or ornamentation, whether installed on, above or below grade. All buildings are structures, however, not all structures are buildings. Structures include such things as towers, sheds (wooden or synthetic), gazebos and decks and swimming pools that extend more than 30 inches above finished grade.

Sustainable. Practices or methods that meet the needs of the present generation without compromising the ability of future generations to meet their needs.

Temporary use or building. A temporary use, structure, or building permitted to exist for a specified period of time.

Traffic impact assessment/study. The analysis of the potential traffic impacts at site access points and intersections in the vicinity of a proposed project or rezoning. The following definitions are related to traffic impact assessments and studies:

- (1) *Average day.* A Tuesday, Wednesday or Thursday for most uses. The average day may be a Saturday for uses that have higher peak-hour traffic volumes on a Saturday rather than mid-week.
- (2) *Background traffic.* Traffic anticipated to occur regardless of the decision on the subject application based on overall trends as demonstrated by annual traffic increases and associated with specific approved projects for the opening year of a project. Data such as historic counts and long-range traffic projections shall be considered as part of the background traffic calculation.
- (3) *Level of service.* A qualitative measure describing operational conditions within a traffic stream; generally described in terms of such factors as speed and travel time, delay, freedom to maneuver, traffic interruptions, comfort and convenience and safety.
 - a. *Level of service A.* Operations with very low control delay occurring with favorable progression and/or short cycle lengths.
 - b. *Level of service B.* Operations with low control delay occurring with good progression and/or short cycle lengths.
 - c. *Level of service C.* Operations with average control delays resulting from fair progression and/or longer cycle lengths. Individual cycle failures begin to appear. Typically determined to be acceptable for signalized intersections.
 - d. *Level of service D.* Operations with longer control delays due to a combination of unfavorable progression, long cycle lengths or high volume capacity (V/C) ratios. Many vehicles stop and individual cycle failures are noticeable. Typically determined to be acceptable for unsignalized intersections.
 - e. *Level of service E.* Operations with high control delays due to a combination of poor progression, long cycle lengths and high V/C ratios. Individual cycle failures are a frequent occurrence. This is considered to be the limit of acceptable delay.
 - f. *Level of service F.* Operation with control delays unacceptable to most drivers occurring due to over-saturation where arrival rates exceed the capacity of the intersection, poor progression or very long cycle lengths.
- (4) *Peak hour.* A one-hour period representing the highest hourly volume of traffic flow in the adjacent street system during the morning (a.m. peak hour), during the afternoon or evening (p.m. peak hour); or representing the hour of highest volume of traffic entering or exiting a site (peak hour of generator).
- (5) *Trip (directional trip).* A single or one-directional vehicle movement with either the origin of the destination (exiting or entering) inside a study site.

Trade and vocational school. A facility whose principal use is teaching automotive, construction (cabinet making, carpentry, electrical, HVAC, masonry, plumbing, etc.), manufacturing or welding skills, generally in a shop setting.

(Ord. No. 1087, § 19-11, 3-8-10)

Sec. 24-462. - Definitions U-V.

USGBC (U.S. Green Building Council). Non-profit organization dedicated to sustainable building design and construction.

Use. The principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

Variance. A relaxation or modification of the requirements of this chapter as authorized by the board of zoning appeals (BZA) under the provisions of this chapter.

Vehicle uses,

- (1) *Vehicle dealership.* A building or premises used primarily for the sale of new and used automobiles and other motor vehicles such as motorcycles, boats, recreational vehicles or other similar methods of transportation. Such a dealership may include outdoor display and accessory indoor maintenance and repair.
- (2) *Vehicle filling and service station.* A building or structure designed or used for the retail sale or provision of fuels (which must be stored only in underground tanks), lubricants, air, batteries, water and other operating commodities for motor vehicles, including the customary space and facilities for the installation of these commodities on or in vehicles and space for facilities for temporary short-term storage, minor repair or servicing. The definition shall not include bumping, painting, refinishing, major repairs and overhauling, steam cleaning or rust-proofing whether a principal or accessory use, nor shall it be construed as an automobile repair or body shop. A filling station may also include other uses such as a convenience store or carryout restaurant.
- (3) *Automobile repair, major.* An automotive repair establishment that may conduct, in addition to activities defined below as "minor repairs", one or more of the following: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; overall painting and undercoating of automobiles; major overhauling of engine requiring removal of cylinder-head or crank case pan; recapping or retreading of tires; steam cleaning; and similar activities.

Automobile repair, minor. A building or premises used primarily to provide general maintenance on automobiles such as oil changes and lubrication; servicing and repair of spark plugs, batteries, pumps, belts, hoses, air filters and windshield wipers; replacement of mufflers and exhaust systems, brakes and shock absorbers; radiator cleaning and flushing; auto detailing; sale and installation of automobile accessories such as tires, radios and air conditioners; and wheel alignment and balancing; but excluding tire

recapping or grooving or any major repairs. A minor auto repair establishment may be located in the same building and be a part of a vehicle service station.

Automobile washes. A facility whose principal use is washing or detailing any motor vehicle either by hand, automatic or self-service means.

Veterinary office or hospital. An institution which is licensed by the Michigan Department of Health to provide for the care, diagnosis and treatment of sick or injured animals, including those in need of medical or surgical attention. A veterinary clinic or hospital may include customary pens or cages for the overnight boarding of animals and such related facilities as laboratories, testing services and offices.

(Ord. No. 1087, § 19.12, 3-8-10)

Sec. 24-463. - Definitions W-Z.

Wall. An artificially constructed upright barrier of any material or combination of materials erected to enclose, buffer, divide, screen or protect.

Warehouse. A facility in which goods or merchandise are stored prior to distribution.

Waste receptacle (dumpster). Any accessory exterior container used for the temporary storage of rubbish, pending collection, having the capacity of at least one cubic yard. Recycling stations and exterior compactors shall be considered to be dumpsters or waste receptacles for the purposes of screening regulations.

Wholesale sales. A facility in which goods or merchandise are not sold at retail, not including membership-based warehouse facilities.

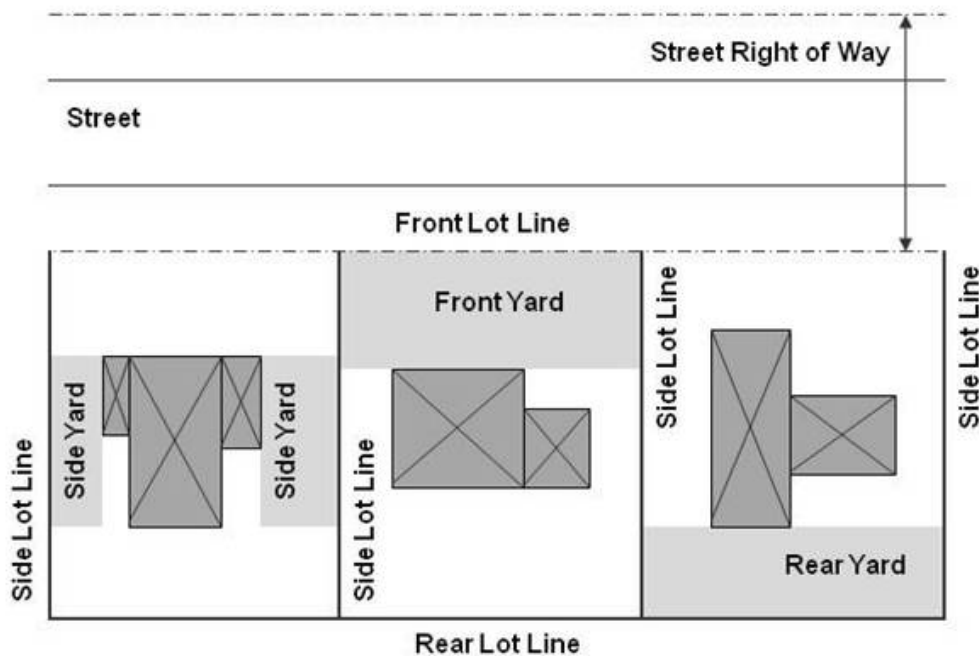
Wind energy conversion system (WECS).

- (1) **WECS.** A device used to convert wind energy into useful form, such as electricity, using wind turbines. WECS include a surface area, typically a blade or rotor; a shaft, gearing, belt or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator or other electricity-producing device; and a tower and other support structure.

WECS height. The distance between the ground (at normal grade) and the highest point of the WECS (being the tip of the blade or other mechanism is in the full vertical position).

Wireless communication facilities. Refer to the city wireless communications ordinance.

Yard. An open space, unoccupied and unobstructed from the ground upward and not including stormwater detention/retention facilities, except as otherwise provided herein, and being on the same lot with a building. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the building or structure. Yards are defined as:



- (1) **Yard, front.** The space extending across the full width of a lot, the depth of which is the minimum horizontal distance between the principal building and the front lot line, measured perpendicularly to the building at its closest point to the front lot line. See also "lot lines, front."
- (2) **Yard, rear.** The space extending across the full width of a lot, the depth of which is the minimum horizontal distance between the principal building and the rear lot line, measured perpendicularly to the building at its closest point to the rear lot line. See also "lot lines, rear."
- (3) **Yard, required.** The unoccupied and unobstructed space that lies between a building or structure and the nearest lot line. The measurement of a yard shall be the minimum horizontal distance between the lot line and the any building or structure measured perpendicularly to the building at its closest point to the lot line.
- (4) **Yard, side.** The space extending across the full length of building or structure, between but not overlapping the front and rear yards, the depth of which is the minimum horizontal distance between any building or structure and the nearest side lot line and measured perpendicularly to the building at its closest point to the side lot line.

Zoning district. A portion of the city within which, on a uniform basis, certain uses of land and buildings are permitted and within which, certain yards, open spaces, lot areas and other requirements are established by this chapter.

- (i) Zoning Act. The Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended.

(Ord. No. 1087, § 19.13, 3-8-10)

Secs. 24-464—24-480. - Reserved.

ARTICLE XX. - ADMINISTRATION AND ENFORCEMENT

Sec. 24-481. - Repeal.

- (a) The existing zoning regulations of the City of Ferndale being the City of Ferndale Zoning Ordinance Number 1004, as amended, adopted by the Ferndale City Council on the 24th of February, 2006, and all amendments thereto, are repealed.
- (b) The adoption of the ordinance from which this chapter derives shall not affect or prevent any pending prosecution of, or action to abate, any existing violation of the aforementioned ordinance, as amended.

(Ord. No. 1087, § 20.01, 3-8-10)

Sec. 20-482. - Severability.

- (a) The various parts, sections and clauses of this chapter are declared to be severable.
- (b) If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

(Ord. No. 1087, § 20.02, 3-8-10)

Sec. 24-483. - Adoption and effective date.

This ordinance, which specifically includes the attached Zoning Map, is adopted on this 8th day of March, 2010, and this Ordinance shall become effective on March 19, 2010, the 7th day following publication of a Notice of Adoption in a newspaper of general circulation in Ferndale on March 12, 2010, pursuant to the provisions of the Michigan Zoning Enabling Act, as amended.

This is a true copy of Ordinance Number 1087, known as the Zoning Ordinance of the City of Ferndale, as amended and supplemented by ordinances adopted by the city council:

(Ord. No. 1087, § 20.03, 3-8-10)