

Chapter 153 ZONING¹

ADOPTING ORDINANCE

ORDINANCE NUMBER 2025-01

AN ORDINANCE ADOPTING AND ENACTING A NEW ZONING CODE FOR THE CITY OF FLUSHING, MICHIGAN; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

THE CITY OF FLUSHING ORDAINS:

Section 1. Short title. This ordinance shall be known as the "Zoning Code of the City of Flushing," published by Municipal Civic Plus, consisting of chapter 153, is adopted.

Section 2. Purpose and Objective.

- (a) This chapter is based upon a comprehensive plan, the purpose of which is to promote public health, safety, convenience, comfort, amenities, prosperity, and the general welfare of the community. This chapter has been formulated with the general purpose of guiding and accomplishing a coordinated and adjusted development of the municipality and its environs which will, in accordance with present and future needs, best promote efficiency and economy in the process of development, including among other things, adequate provision for traffic; safety from fire and other dangers; adequate provision for light and air, the healthful and convenient distribution of population and the regulation of the density of the population; the promotion of good civic design and arrangement; the wise and efficient expenditure of public funds; and the adequate provision of public utilities and other public requirements. It is designed to lessen the congestion on public streets; to reduce undue hazards due to flooding; to conserve property values; to facilitate adequate provisions for public transportation, streets, highways, sewers, water mains, schools, recreation areas; and other public facilities, as carefully analyzed and conceived by the master plan of the city.
- (b) The City Council does hereby recognize that the citizens of the state, through initiative, have adopted the Michigan Medical Marijuana Act, that being MCL 333.26421 et seq., and further determine that it is in the best interests of the citizens of the city, and the health, safety and welfare thereof to regulate the possession, use and/or distribution of marijuana within the corporate limits of the city, whether said possession, use and/or distribution is legal or illegal. The City Council also believes, based on California studies and others, that the congregation of caregivers of marijuana may increase crime and that the providing of caregiving is a commercial undertaking which should not take place in a residential area, and should be set apart from children, other caregivers, other recreation or public places so that the services of the caregiver remain private and confidential.

¹State law reference(s)—Michigan Zoning Enabling Act, MCL 125.3101 et seq.; Michigan Planning Enabling Act, MCL 125.3801 et seq.

Section 3. Interpretation and Scope

In the interpretation and application of this chapter, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or general welfare.

- (a) The provisions of this Article shall be held to be minimum requirements, adopted to promote public health, safety, comfort, convenience, and general welfare. This Article is not intended to repeal, abrogate, annul, impair, or interfere with any existing provisions of law or ordinance. Nor is it intended to overturn any previously approved permits which relate to the use of land or buildings. Nor is this Article intended to interfere with, abrogate, or annul any lawful easements, covenants, or other agreements.
- (b) No building or structure, or part thereof, shall hereafter be erected, constructed, or altered and maintained, and no new use or change shall be made or maintained of any building, structure, or land, or part thereof, except in conformity with the provisions of this chapter.
- (c) No building shall be erected, converted, enlarged, moved, reconstructed, or structurally altered, nor shall any land be used, filled, or excavated which does not comply with all the district regulations established by this chapter for whichever zoning district in which the building or land is located.
- (d) No building shall be erected, converted, moved, reconstructed, or structurally altered so as to intrude upon the area required for the front, side, and rear yards as herein established, excepted as provided for by a variance or an exception granted under the terms of this chapter; provided that no yard or open space of adjoining property shall be considered as providing a yard or open space for a lot wherever a building is to be erected except in conformity with the provisions of this chapter.
- (e) No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations as hereinafter provided, nor shall the area of any lot be reduced below the minimum requirements herein established except as provided for by a variance.
- (f) Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building and the customary accessory building on one lot except as otherwise provided, in conformity with the provisions of this chapter. There shall be only one residential dwelling unit per lot except for multiple-family developments, planned unit developments, condominiums and mobile home parks.
- (g) Reclamation, filling, sanitary and solid waste disposal, or excavation of any land, except when this excavation is in conjunction with an immediate building program and required permit, is hereby automatically prohibited from any zone.

Section 4. Severability. If any section, paragraph, clause, phrase or part of this Zoning Ordinance is for any reason held invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this chapter; and the application of those provisions to any persons or circumstances shall not be affected thereby.

Section 5. Repeal. All planning and zoning ordinances of a general and permanent nature enacted on or before December 9, 2024, and not included in the Code or recognized and continued in force by reference therein, are repealed.

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- (a) The existing zoning regulations of the city, as amended, are hereby repealed. However, such repeal shall not abate any action now pending under or by virtue of the ordinance herein repealed. Nor shall such repeal discontinue, abate, modify, or alter any penalty accrued or to occur. Nor shall it affect the rights of any person, firm, or corporation. Nor shall such repeal waive any right of the city under any section or provision of the ordinance hereunder repealed that was existing at the time of the passage and effective date of this chapter.

Section 6. Validity. Should any section, clause or provision of this chapter be declared by the courts to be invalid, the same shall not affect the validity of this chapter as a whole or any part thereof, other than the part so declared to be invalid.

Section 7. Penalty. Except as otherwise provided by law and by this Code, a person convicted of a violation of this Code shall be guilty of a misdemeanor and punished by a fine not to exceed \$500.00, imprisonment for a period of not more than 90 days, or both; however, unless otherwise provided by law, a person convicted of a violation of any provision of this Code that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days shall be punished by a fine of not more than \$500.00, imprisonment for a term of not more than 93 days, or both. A person convicted of a violation of this Code shall be responsible for costs.

Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 8. Vested Right. It is hereby expressly declared that nothing in this chapter shall be held or construed to give or grant to any person, firm, or corporation any vested right, license, privilege, or permit, except as expressly permitted within this chapter.

Section 9. Conflicting Regulations. Whenever any provision of this chapter imposes more stringent requirements, regulations, or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this chapter shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this chapter, then the provisions of that law or ordinance shall govern.

Section 10. Code additions or amendments. Additions or amendments to the Code when passed in such form as to indicate the intention of the City Council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 11. Later ordinances. Ordinances adopted after October 30, 2016, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 12. Effective date. This Ordinance shall be effective seven (7) days after publication, as required by PA 110 of 2006, as amended.

Planning Commission: October 28, 2024

First Reading: December 9, 2024

Second Reading: January 13, 2025

Date Published: January 16, 2025

	The City of Flushing
	Edward Sullivan, Mayor
	Monica M. Zofchak, City Clerk

- TITLE XV. LAND USAGE
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ARTICLE 1. GENERAL PROVISIONS

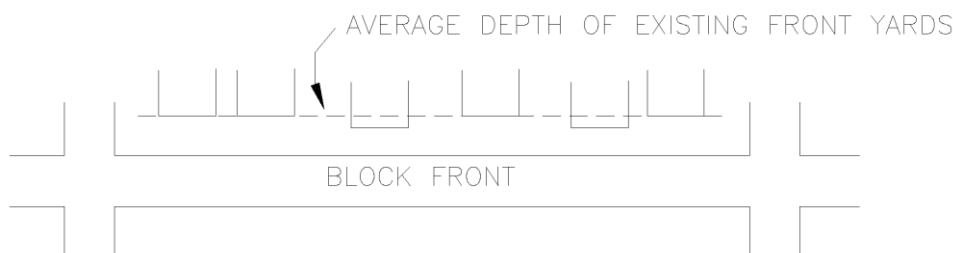
Sec. 153.101. Intent.

This Article provides more stringent requirements for specific uses and circumstances, consistent with the City of Flushing's desired vision for future development and community character. These regulations may apply to one or more zoning districts or uses.

Sec. 153.102. Exceptions.

- (a) Essential services: Essential service utility providers shall be permitted as authorized and regulated by statute and other ordinances of the municipality, it being the intention hereof to exempt such essential services from the application of this chapter.
- (b) Voting place: The provisions of this chapter shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.
- (c) Height limits: The height limitations of this chapter shall not apply to farm buildings, chimneys, church spires, flag poles, water tower, public monuments, or communication antenna or otherwise permitted under this ordinance provided, however, that the Planning Commission may specify a height limit for any such structure when such structure requires authorization as a special use and may require increased setbacks to address collapse of structure (such as a water tower).
- (d) Lot area: Any lot legally existing and of record on the effective date of this ordinance may be used for any principal use permitted in the district which such lot is located, other than special uses for which special lot area requirements are specified in this ordinance, whether such lot complies with the lot area and width requirements of this ordinance. Such use may be made provided that all requirements other than lot area and width prescribed in this ordinance are complied with and provided that not more than one (1) dwelling unit shall occupy any lot except in conformance with the provisions of this ordinance for required lot area for each dwelling unit. (See also Sec. 153.902, Nonconforming Lots..)
- (e) Projections into yards: Architectural features of principal structures, excepting vertical projections, may extend or project into a required side yard setback not more than 4 inches for each one foot of such side yard 2 feet, and may extend or project into a required front yard or rear yard not more than 3 feet. Architectural features of any structure may not project beyond the property line.
- (f) Terraces, decks and gazebos: An open, unenclosed paved terrace, patio or uncovered porch may project into a required front yard for a distance not exceeding 10 feet, but this shall not be interpreted to include or permit fixed canopies. Freestanding decks or gazebos must comply with accessory structure setbacks. Decks that are enclosed or with a frost-free foundation and capable of being enclosed shall be considered part of the principal dwelling and meet all required setbacks.

- (g) Exceptions to front yard requirements: On legal nonconforming residential lots with a width of less than 75 feet and recorded as such prior to the date of the adoption of the ordinance from which this chapter is derived, the minimum width of each side yard shall be 5 feet.



- (h) Exceptions to side yard requirements. On legal nonconforming lots with a width of less than 75 feet and recorded as such prior to the date of the adoption of the ordinance from which this chapter is derived, the minimum width of each side yard shall be 5 feet.

Sec. 153.103. Performance Standards.

No use otherwise allowed shall be permitted within any zoning district which does not conform to the following standards of use, occupancy, and operation, which standards are hereby established as the minimum requirements to be maintained within the area:

(1) Smoke.

- a. It shall be unlawful for any person, firm, or corporation to permit the emission of any smoke from any source whatever to a density greater than that density described as No. 1 of the Ringelmann Chart; provided that the following exceptions shall be permitted: smoke, the shade or appearance of which is equal to, but not darker than No. 2 of the Ringelmann Chart for a period aggregating no more than 4 minutes in any 30-minute period.
- b. Method of measurement. For the purpose of grading the density of smoke, the Ringelmann Chart, as now published and used by the United States Bureau of Mines and which is hereby made a part of this chapter, shall be the standard. However, the Umbrascope readings of smoke density may be used when correlated with Ringelmann's Chart.
- c. See the US Department of Interior Ringelmann's Smoke chart (short example below):



(a) Chart (Circle type).

Ringelmann scale	Light transmission (%)	Opacity (%)
0	[100,90)	[0,10]
1	[90,70)	(10,30]
2	[70,50)	(30,50]
3	[50,30)	(50,70]
4	[30,10)	(70,90]
5	[10,0]	(90,100]

(b) Intensity values per scale.

(2) Dust, dirt, and fly ash.

- a. No person, firm, or corporation shall operate or cause to be operated or maintain or cause to be maintained, any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating, while using that process or furnace

or combustion device a contrivance to reduce the quantity of gas-borne or air-borne solids of fuels emitted into the open air, which is operated in conjunction with that process, furnace, or combustion device so that the quantity of gas-borne or air-borne solids shall not exceed 0.20 grains per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.

- b. Method of measurement. For the purpose of determining the adequacy of these devices, these conditions are to be conformed to when the percentage of excess air in the stack does not exceed 50 percent at a full load. The foregoing requirement shall be measured by the A.S.M.E. test code for dust-separating apparatus. All other forms of dust, dirt, and fly ash shall be eliminated insofar as escape or emission into the open air is concerned. The Zoning Administrator may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust, dirt, and fly ash have been made.

(3) Glare and Heat.

Any operation or activity producing glare shall be so positioned that direct and indirect illumination from the source of light shall not cause illumination in excess of one-half (1/2) of one (1) foot-candle when measured at any property line or right-of-way line. Flickering or intense source of light shall be controlled so as to not cause a nuisance across any property lines. If heat results from any industrial operation or other source, it shall be so insulated as to not raise the temperature at any property line or right-of-way line at any time.

(4) Radioactive materials.

No activity shall emit dangerous radioactivity at any point, or unreasonable electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.

(5) Storage of flammable materials.

Any activity involving the use or storage of flammable or explosive devices or materials shall be protected by adequate firefighting and fire suppression equipment and such safety devices as are normally used in handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved. The City of Flushing Fire Department may inspect flammable material at any time.

(6) Noise.

No operation or activity shall be carried out which causes or creates measurable noise levels exceeding the levels established in City Noise Ordinance.

(7) Vibration.

Vibrations from industrial operations or other sources shall be controlled to the extent that they cannot be felt beyond any property line.

(8) Noxious gas and odor.

No noxious, odorous, or malodorous gases shall be allowed to escape into the atmosphere in concentrations which are offensive, which produces a public nuisance or hazard on any adjoining lot or property, or which could be detrimental to human, plant, or animal life.

Sec. 153.104. Lighting.

All lighting must comply with the following standards:

(1) Freestanding pole lighting.

- a. See Sec. 153.503 for parking lot lighting standards.

(2) Building-mounted lighting.

- a. Commercial and industrial buildings are required to have adequate lighting at sides of the building with entries and exits.
- b. Building-mounted lighting shall be fully shielded and directed downward to prevent off-site glare. Fixed (not adjustable), downward directed, shall be used to maintain a unified lighting standard throughout the city and prevent "sky glow."
- c. The intensity of light within a site shall not exceed 10 foot-candles within any site nor 1 foot-candle at any property line, except where it abuts a service drive or other public right-of-way. Foot-candles abutting a residential district or use can be a maximum of 0.5 foot-candles at the property line.
- d. The Planning Commission may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare, and the proposed fixtures will improve the appearance of the site.
- e. Luminous tube and exposed bulb fluorescent lighting is prohibited as an architectural detail on all buildings, such as along roof eaves and around windows, etc. The Planning Commission may approve internally illuminated architectural bands when it can be shown that the treatment will enhance the appearance of the building or is necessary for security purposes.

(3) Window lighting.

- a. Any light fixtures visible through a window must be shielded to prevent glare at the property line.
- b. Exposed lighting (visible from the property line) is prohibited unless it is part of a sign that meets the requirements of Chapter 156 Signs.

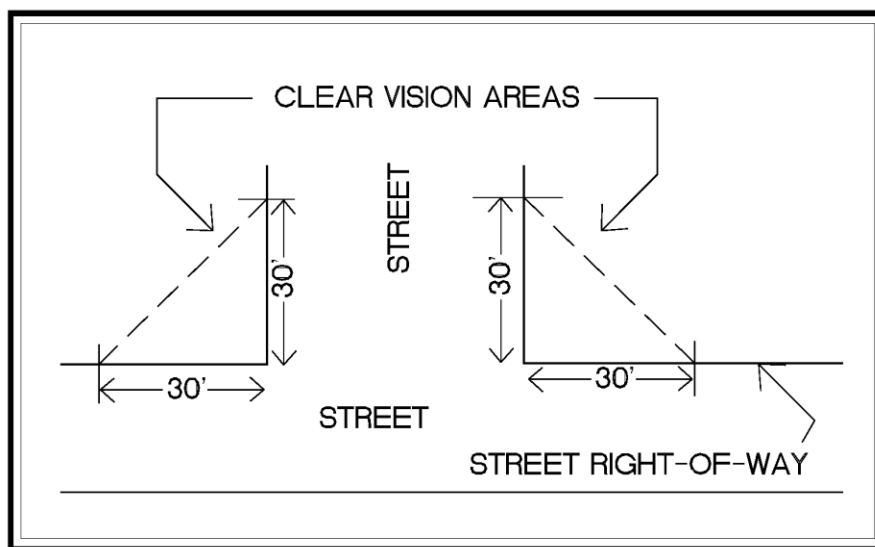
(4) Other lighting.

- a. The internal illumination of building-mounted canopies is prohibited.
- b. Indirect illumination of signs, canopies, and buildings is permitted provided a maximum 125-watt bulb is utilized and there is no glare.
- c. Ground lighting (up-lighting) used for the purpose of illuminating signs, landscaping, and architectural details shall be shielded away from public view, directed solely at the object to be lit, and screened with landscaping as necessary.
- d. The use of a laser light source, search lights, or any similar high-intensity light for outdoor advertisement or entertainment is prohibited.
- e. Lighting shall not be of a flashing, moving, or intermittent type.
- f. Exposed lighting is permitted as part of a sign meeting the requirements of Chapter 156 Signs.

Sec. 153.105. Corner Clearance.

(1) Corner clearance for streets.

No fence, wall, shrubbery, sign, or other obstruction to vision above a height of 3 feet from the established street grades shall be permitted within the triangular area formed by intersecting the street right-of-way lines with a straight line drawn between the right-of-way lines at a distance along each line of 30 feet from their point of intersection. This distance may be increased by the Zoning Administrator, with assistance from the police department, based on existing conditions, should such increase be necessary to ensure public health, safety and welfare.



(2) Corner clearance for drives.

No fence, wall, shrubbery, sign, or other obstruction to vision above a height of 3 feet from the established street grades shall be permitted within the triangular area formed at the corner intersection of a public right-of-way and a driveway, two sides of the triangle area being 30 feet in length measured along the right-of-way line and driveway line and the third side being a line connecting these two sides (see previous illustration). This distance may be increased by the Zoning Administrator, with assistance from the police department, based on existing conditions, should such increase be necessary to ensure public health, safety and welfare.

Sec. 153.106. Section Entranceways

- (a) Entranceway structures including but not limited to walls, columns, and gates marking entrances to single-family subdivisions, multiple-family housing developments, industrial parks, or commercial developments may be permitted and may be located in a required yard provided they shall comply to all codes of the City of Flushing and shall be approved by the Zoning Administrator and a zoning permit issued.

Sec. 153.107. Access to a Major Thoroughfare or Collector Street.

The need for vehicular access shall be provided only to an existing or planned major thoroughfare, or collector street. Provided, however, that access driveways may be permitted to other than a major thoroughfare, or collector street where such access is provided to a street where the property directly across the street between the driveway and the major thoroughfare, or collector street is zoned for multiple-family use or any nonresidential uses, is developed

with permanent uses other than single-family residences or is an area which, in the opinion of the Planning Commission, will be used for other than single-family purposes in the future, or if the Planning Commission finds that there are special circumstances which indicate that there will be a substantial improvement in traffic safety by reducing the number of driveways to a thoroughfare.

- (a) All private roads or access drives proposed as part of a new development shall be reviewed by the city engineer during site plan review for compliance with best practices and Genesee County Road Commission standards.

Sec. 153.108. Multiple-Dwelling Side Yards.

For the purpose of side yard regulations, a two-family structure, a terrace house, a row house structure, or a multiple-dwelling structure shall be considered as one building occupying one lot.

Sec. 153.109. Soil Erosion.

All development within the city must meet the requirements of Part 91 of Public Act No. 451 of 1994 (MCL 324.9101 et seq.).

Sec. 153.110. Fees.

The City Council shall establish a fee schedule by resolution from time to time for the purpose of assisting in the administration of this chapter, including, but not limited to, zoning permits, site plan reviews, special use permit reviews, variances and appeals.

Sec. 153.111. Automobiles for Sale.

Lots for which new or used automobile and all other vehicles, including boats, trailers, etc. for sale(s) is not the principal use, shall be permitted a maximum of one automobile parked on the lot for the purpose of sale of the automobile. In instances where the owner of the automobile does not own the lot, the written permission of the owner of the lot shall be required by the Zoning Administrator before an automobile may be displayed for sale.

Sec. 153.112. Waste Receptacle.

- (a) Waste receptacles, including dumpsters and compactors, shall be required in all multiple-family and nonresidential developments unless the Planning Commission determines one is not necessary for the use. All waste receptacles must be located within an enclosure meeting the following standards. These requirements do not apply to single-family residences.
- (b) Waste receptacles shall be enclosed on three sides with a gate on the fourth side. The enclosure shall be constructed of fencing, brick, or decorative masonry block material consistent with the principal building with a maximum height of 6 feet or at least 1 foot higher than the waste receptacle and spaced at least 3 feet from the waste receptacle. Chain-link fencing with vinyl or wood strips is not acceptable screening material.
- (c) Waste receptacle enclosures shall be located in the rear yard or side yard, at least 10 feet from any nonresidential property line, combustible walls, or combustible roof eaves and in no case be less than 20 feet from any residential district.

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- (d) Waste receptacle enclosures shall be easily accessed by refuse vehicles without potential to damage automobiles parked in designated parking spaces.
 - (e) The waste receptacle enclosure base shall be at least 9 feet by 6 feet, constructed of 6 inches of reinforced concrete pavement. The base shall extend 6 feet beyond the waste receptacle pad or gate to support the front axle of a refuse vehicle.
 - (f) No refuse or trash shall be permitted to be stored higher than the waste receptacle enclosure.
 - (g) Gates and lids shall remain closed at all times.
 - (h) Trash shall not be stored outside of trash receptacle.
 - (i) Trash receptacle shall have a lid and remain closed at all times
 - (j) The trash receptacle shall not be taller and protrude above or outside the trash enclosure.

Sec. 153.113. Building Regulations.

- (a) **Scope.** No building or structure, or part thereof, shall hereafter be erected, constructed, used, reconstructed, altered, or maintained, and no lot or land, or part thereof, shall hereafter be used or maintained and no new use made of any building, structure, or land, or part thereof, except in conformity with the provisions of this ordinance.
- (b) **Unlawful building.** If any building, or part thereof, is used, erected, occupied, or altered contrary to law or the provisions of this ordinance, such building shall be deemed an unlawful structure and a nuisance and may be required to be vacated, torn down, or abated by any legal means, and shall not be used or occupied until it has been made to conform to the provisions of this ordinance. Public expenditures toward abating such nuisance shall become a lien upon the land.
- (c) **Temporary building/ commercial-industrial.** No temporary building, such as an office or construction trailer, shall be erected unless a valid building permit exists for a permanent building or a new use of land on the same site. Any temporary building shall be removed from the site within 30 days of issuance of a certificate of occupancy, whether the certificate is provided by the City of Flushing or the County of Genesee. The approval of a temporary building may not exceed one (1) year; however, the Planning Commission may grant multiple extensions up to three (3) months each for good cause shown when the approval is due to expire. No temporary building shall be used for residential purposes. A temporary building must receive approval as a temporary use per Sec. 153.118 Temporary Uses.
- (d) **Frontage on a public street.** No building shall be erected on a lot unless said lot fronts upon a street or road that has been dedicated to the public or private street, except where a site plan that provides for adequate vehicular access and circulation, and future traffic needs of the city has been approved by the Planning Commission. Multi-family developments, or commercial, office, or industrial centers need not front each such structure within the development upon publicly dedicated streets or roads, provided that adequate interior vehicular circulation and access can be assured in a site plan submitted for approval to the Planning Commission.
 - (1) Any parcel of land which is to be occupied by a use or building, other than an accessory use or accessory building, shall have frontage on and direct address to a public street, or approved private street.
- (e) **One lot, one building.** In all districts, only one (1) principal building shall be placed on a single lot of record, except as provided by (d) (above).

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- (f) **Foundation required.** All dwellings, not located in a licensed manufactured housing park/facility licensed by the State of Michigan shall be firmly attached to a permanent perimeter foundation constructed on the site in accord with the building codes.
 - (g) **Grading and runoff.** Building sites shall be graded and drained in a manner that is consistent with the following standards. Final grades shall be determined by the Building Inspector.
 - (1) Prevents the increased rate of flow of stormwater onto adjacent properties causing ponding or flooding.
 - (2) Does not negatively impact public drains or storm sewers.
 - (3) Directs the flow of surface water away from buildings or structures.
 - (h) **Excavations, holes, pits, or wells.** Any excavation, hole, pit, or well that is reasonably likely, as determined by the Zoning Administrator, to constitute a danger to public health, safety, and welfare must be effectively barricaded and secured, or filled in.

Sec. 153.114. Building Appearance.

- (a) See DESIGN STANDARDS in ARTICLE 15.

Sec. 153.115. Personal Construction Authority.

- (a) **Personal construction authority.** Nothing in this ordinance shall be construed as prohibiting an owner, tenant, occupant, or land contract vendee from doing their own building, altering, plumbing, electrical installations, etc., provided it includes compliance with the minimum requirements and inspection per the Electrical and Plumbing Codes of the State of Michigan, City of Flushing Ordinances, and the applicable County Health Department regulations.

Sec. 153.116. Access Through Yards.

- (a) For the purpose of this ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. However, in single-family residential districts access drives shall be limited to one (1) curb cut and may occupy no more than 12 feet of the front yard, unless otherwise approved by Planning Commission. Further, any walk, terrace, or other pavement integral to an access drive, and not in excess of 9 inches above the grade upon which placed, shall for the purpose of this ordinance not be considered to be a structure.

Sec. 153.117. Canopies and Awnings in the Public R.O.W.

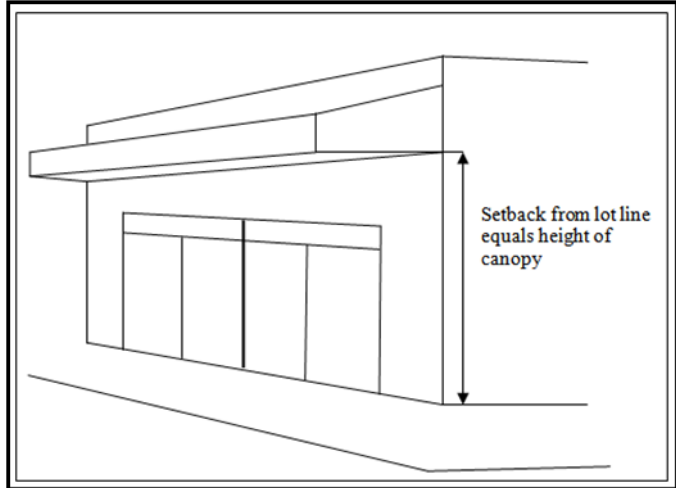
Canopies and awnings offering partial protection from the weather, but not fully enclosed, and which extend into a public right-of-way or required yard, may be considered for approval subject to the following conditions:

- (1) **Public right-of-way.** Canopies and awnings extending into a public right-of-way are subject to the following requirements:
 - a. Such approval shall only be granted by the City Council.
 - b. Any such structure shall not extend closer than 24 inches to any vehicular parking space or moving vehicle lane.

c. Any such structure shall not conflict with necessary sight distances for proper vehicular and pedestrian movements.

d. Any such structure shall not conflict with any existing or proposed: landscape features, traffic control device, lighting, adjacent properties and signs, and pedestrian movements.

e. The height, location, materials, construction, and signage involved in any such structure shall specifically be subject to review and approval by the City Council, further, any such structure shall provide no less than 7 feet 6 inches of clearance between the sidewalk and the structures.



f. The structure shall be maintained in such a manner as to continue its original appearance and provide proper safety to the persons and property it may affect.

(2) **Required yard.** Canopies and awnings extending into a required yard are subject to the following requirements:

a. Any such structure shall not extend closer than the height of the canopy to any property line adjacent to a residential district. Height is measured from the ground to the bottom of the canopy.

b. Any such structure shall not conflict with necessary sight distances for proper vehicular and pedestrian movements.

c. The height, location, materials, construction, and signage involved in any such structure shall specifically be subject to review and approval.

d. The structure shall be maintained in such a manner as to continue its original appearance.

Sec. 153.118. Temporary Uses.

The Planning Commission shall have the power to grant permits for, or direct the Zoning Administrator to authorize temporary land uses for:

(1) Seasonal sales of produce, firewood, or Christmas trees, and similar uses subject to the following conditions:

a. Zoning districts where permitted.

b. Temporary uses shall be restricted to non-residential zoning districts.

c. Application and submittal requirement.

d. The application for a temporary use permit shall be accompanied by plans and specifications including a lot drawn to scale, showing the following:

1. The shape, location, and dimensions of the lot, including the shape, size, and location of all buildings or other structures already on the lot.

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2. The materials to be utilized/ sold and the parking lot layout.
 3. The anticipated automobile traffic flow to and from the lot and any adjacent thoroughfares, or loss of off-street parking spaces.
- e. Time limitations.
1. A temporary use permit for sale of Christmas trees or similar seasonal items shall by its terms be effective for no longer than 30 days. No more than one (1) temporary use permit for the sale of Christmas trees, or similar seasonal items, shall be issued for any given location within a single calendar year.
 2. A temporary use permit for a vegetable, fruit, or produce stand or for the sale of firewood or similar use shall, by its terms, be effective for no longer than 30 days. No more than one (1) temporary use permit for such uses shall be issued for any given location within a single calendar year.
- (2) Permitted uses which do not require the erection of any capital improvement of a structural nature, not otherwise permitted in any district (such as art fairs, carnivals, and civic festival events), not to exceed seven (7) days.
- (3) In classifying uses as not requiring capital improvement, the Planning Commission or Zoning Administrator shall determine that they are either demountable structures related to the permitted use of the land; recreation developments such as, but not limited to golf driving ranges and outdoor archery courts, or structures which do not require foundations, heating systems, or sanitary connections.
- (4) The granting of the temporary use shall be in writing, stipulating all conditions as to time, nature of development permitted, and arrangements for removing the use at the termination of said temporary permit.
- (5) **Standards for approval for temporary uses.** A temporary use permit will be granted if the proposed use, including the erection of any temporary building or structure will:
- a. Assure adequate light and ventilation between the buildings and structures.
 - b. Facilitate adequate automobile and pedestrian traffic flow and provide adequate off-street parking. Additionally, temporary use established area and associated parking must not impact parking compliance for the primary use on site.
 - c. Provide adequate lot access for fire protection purposes.
 - d. Not adversely affect the stability and integrity of the zoning plan prescribed by this ordinance nor otherwise interfere with the protection of the public health, safety, and general welfare.
 - e. Not be incompatible with or otherwise adversely affect the physical character of the community and, in particular, the surrounding area within a distance of 200 feet from the parcel in question.
 - f. When the proposed temporary use is to be conducted on an otherwise vacant or unused lot, the use shall comply with all applicable zoning regulations for the district in which the temporary special use is to be located, including all requirements pertaining to lot size, height, setbacks, open space ratio, maximum percentage of lot coverage, and off-street parking.
- (6) Temporary use shall exclude fireworks sales.

Sec. 153.119. Private Swimming Pools.

- (1) A building permit must be obtained for the alteration, erection, and construction of permanent above or below ground swimming pools, and for portable pools with a diameter exceeding 12 feet, a depth greater than 24 inches, or an area exceeding 160 square feet. Swimming pools as defined in this Zoning Ordinance are subject to and governed by the Michigan Residential Code. The Zoning Administrator shall review and approve all setbacks as required in Sec. 153.119(2) below.
- (2) Rear and side lot line setbacks shall not be less than 10 feet between the pool outside wall and the side or rear property line, and not less than 10 feet between pool wall and any building on the lot.
- (3) A private swimming pool shall be located only in the rear yard.

Sec. 153.120. Communication Towers.

- (1) Shall be located centrally on a parcel at a distance not less than 1.5 times the height of the tower from any property line.
- (2) A barrier at least 8 feet in height shall be installed along the perimeter of the tower, and any accessory structures if deemed appropriate. Said barrier shall consist of either ornamental masonry or materials which are determined to be durable and weather resistant and designed to hinder entrance by non-authorized personnel. If a barrier is not feasible, anti-climb panels shall be installed at a height of 12 feet above the finished grade and 5 feet above the highest point of the closet structure within 10 feet of the tower.
- (3) A 10-foot-wide landscaped greenbelt shall be provided between the property line and required barrier along all street frontages. A 5-foot-wide landscaped greenbelt shall be provided between the property line and barrier where the site abuts any residential district. All materials shall be planted in conformance with Sec. 153.809 Plant Material Specifications.
- (4) Communication towers shall be removed by their owners within six (6) months of the date on which such facilities are no longer used, or which become obsolete for the purpose or purposes for which they were granted special use.
- (5) Prior to receiving site plan approval, the applicant must demonstrate that there are no existing towers or structures that would be suitable for telecommunications antenna as an alternative to constructing a tower.

Sec. 153.121. Supplementary Environmental Regulations.

- (a) **Intent.** Several state laws impact the development of environmentally sensitive land and require permits for development in areas under their jurisdiction. Permit processes associated with these laws supersede local land use regulations. Therefore, zoning administration must be coordinated with these laws. This section is intended to facilitate compliance with the Natural Resources and Environmental Protection Act (PA 451 of 1994) including Part 303 Wetlands Protection, Part 337 Flood Drainage and Beach Erosion Control, Part 301 Inland Lakes and Streams, and Part 91 Soil Conservation, Erosion and Sedimentation Control.
- (b) **Process.** One step in the review process for any zoning application (see Sec. 153.1105(b)) is to determine whether any sensitive environmental areas will be impacted by the proposed project. The Zoning Administrator reviews the maps identified by the table of environmental regulations in subsection (c) below, to determine whether a proposed land use involves any of the sensitive areas listed by the table. If it does, an application

must be filed with each agency identified by the table. Issuance of a zoning permit will be conditioned upon receipt of the applicable permit(s) unless the table indicates otherwise.

- (c) **Table of environmental regulations.** This table identifies which actions, in which areas, are subject to special regulation under various state laws. It indicates which permit processes are to be followed, what maps are to be used to identify the areas of concern, and other pertinent information.

State Act	Actions covered	Areas covered	Map locating such areas	Permit process	Other
Part 337 of PA 451 of 1994	Any fill or construction	100-year floodplain	FEMA flood hazard boundary maps	EGLE joint application	
Part 303 of PA 451 of 1994	Any dredging, filling, drainage, or construction	Wetlands over 5 acres or contiguous to a lake or stream	National Wetlands Inventory or Michigan Resource Information System Maps	EGLE joint application	
Part 301 of PA 451 of 1994	Any dredging, filling, or construction; erect, maintain, or operate any marina	Bottomland or banks of any lake or stream. (EGLE claims jurisdiction over county drains also)	County drain maps	EGLE joint application	Zoning Administrator may allow upland construction to proceed, but only if no other environmental law is applicable
	Create or alter any lake or stream	Any lake or stream, or within 500 feet			
Part 91 of PA 451 of 1994	Any dredging, filling, grading, or construction	Any lake or stream or within 500 feet	County drain maps	Soil erosion permit from the Genessee County Publics Works Commissioner	
	Construction which disturbs over 1 acre	Anywhere	Any local map		
Michigan Drain Code (Act 40 of 1956)	Any dredging, filling, grading, or culvert installation	Within the banks of any county drain	County drain maps (open drains only)	County drain commission permit	Zoning Administrator may allow construction outside drain easement to proceed, but only if no other environmental law is applicable
	Any construction activity	Within a drain easement	County drain maps		

- (d) **Maps and permit forms.** The Zoning Administrator shall maintain a set of maps indicating the geographic extent of areas covered by the various laws identified in the table of environmental regulations. These shall be available for public inspection. Permits must be obtained from the state Department of Natural Resources or the soil

erosion and sedimentation control enforcement officer before a zoning permit may be issued for activities in such areas. The Zoning Administrator shall maintain a supply of application forms for such permits and provide copies of them to interested persons.

- (e) **Provisions for flood hazard areas.** Flood hazard areas are divided into areas known as the floodway and floodplain or Special Flood Hazard Areas by the flood insurance study for the village. Elevations of the 100- and 500-year floods for various village locations are identified by this study, issued by the Federal Emergency Management Agency.
 - (1) **Current uses continue.** Land uses in existence before the effective date of this Chapter may continue in floodway or floodway fringe areas.
 - (2) **New use limitations in floodway.** Structures proposed for location in floodways must first obtain a state permit. They shall not be designed for human occupancy and shall have no, or a very low, flood damage potential. Storage of material or equipment in floodway areas is allowed only if same is readily removable upon flood warning.
 - (3) **Use limitations in floodway fringe.** Structures proposed for location in the Special Flood Hazard Area must first obtain a state permit. Any work must also comply with the floodplain requirements of the State Building Code.

Sec. 153.122. Screening of Mechanical Equipment.

- (a) Support equipment including air conditioning and heating devices, water, and gas meters, but not including plumbing or exhaust vents or chimneys, when located outside of a building, are to be screened to the height of the particular piece of equipment, as follows:
 - (1) **Roof-mounted equipment.** To be screened by architectural features from the view of abutting streets and parcels.
 - (2) **Equipment at grade.** When located on the ground adjacent to a building, mechanical equipment is to be screened by landscaping, a solid wall, or fencing from the view of the street or surrounding properties.

Sec. 153.123. Public Utility Connections.

- (a) Where public sewer, sanitary, and water lines exist, a new development will connect to those utilities rather than creating private systems.

ARTICLE 2. DEFINITIONS

Sec. 153.201. Interpretation.

The following rules of construction apply to the text of this ordinance:

- (a) The particular shall control the general.
- (b) In case of any difference of meaning or implication between the text of this ordinance and any caption or illustration, the text shall control.
- (c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (d) Words used in the present tense shall include the future tense; and words used in the singular shall include both the plural and the singular, unless the context clearly indicates the contrary.
- (e) A "building" or "structure" includes all or any part thereof.
- (f) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- (g) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
 - (1) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply. The ampersand (&) may be used instead if the word "and."
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - c. "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
 - (2) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
 - (3) Terms not herein defined shall have the meaning customarily assigned to them. For terms which are not defined in this Chapter, the definition of the term shall be taken from Webster's Dictionary.
 - (4) "Development Rights" as required by the State of Michigan Zoning Enabling law are not included because they are intended for large tracts of land in active farming. Such land is not currently and not likely to be available in the City of Flushing.

Sec. 153.202. Definitions.

A

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

Addition: An extension or increase in floor area or height of a building or structure.

Adult Foster Care Facility: A governmental or nongovernmental establishment subject to state licensing procedures as may be required having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults who are aged; emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care facility does not include a nursing home, a home for the aged, an alcohol or a substance abuse rehabilitation center, a hospital for the mentally ill, or similar facilities.

Aged: An adult whose chronological age is 60 years of age or older, or whose biological age, as determined by a physician, is 60 years of age or older.

Airport Approach Plan and Airport Layout Plan: A plan, or an amendment to a plan, filed with the Zoning Commission under Section 151 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCL 259.151.

Airport Manager: A term defined in Section 10 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCL 259.10.

Airport Zoning Regulations: Airport zoning regulations under the Airport Zoning Act, 1950 (Excess) PA 23, MCL 259.465, for an airport hazard area that lies in whole, or part of the area affected by this Zoning Ordinance.

Alley: Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

Alterations: Any change, addition, or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed."

Arcade: Arcade shall mean any place of business or establishment whose principal use shall be the housing of mechanical amusement devices. Mechanical amusement devices include any machine, which, upon the insertion of any coin, slug, token, plate, or disc, or which, for a fee paid to the operator or owner, may be operated by the public generally for use as a game, entertainment, or amusement, whether or not registering a score. It shall include such devices as marble machines, ski ball, mechanical grab machines, television display devices, or machines and all games, operations, or transactions similar thereto whether operated principally by mechanical means or electrical means or a combination thereof, under whatever name they may be indicated or called.

Architectural Features: Architectural features of a building or a structure shall include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys, and decorative ornaments.

B

Basement: That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

Block: The property abutting one (1) side of a street and lying between the two (2) nearest intersecting streets, (crossing or terminating) or between the nearest such street and railroad right-of-way, un-subdivided acreage, lake, river, or live stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate boundary lines of the municipality.

Breezeway: A structure for the principal purpose of connecting the main building or buildings on a property with other main buildings or accessory buildings.

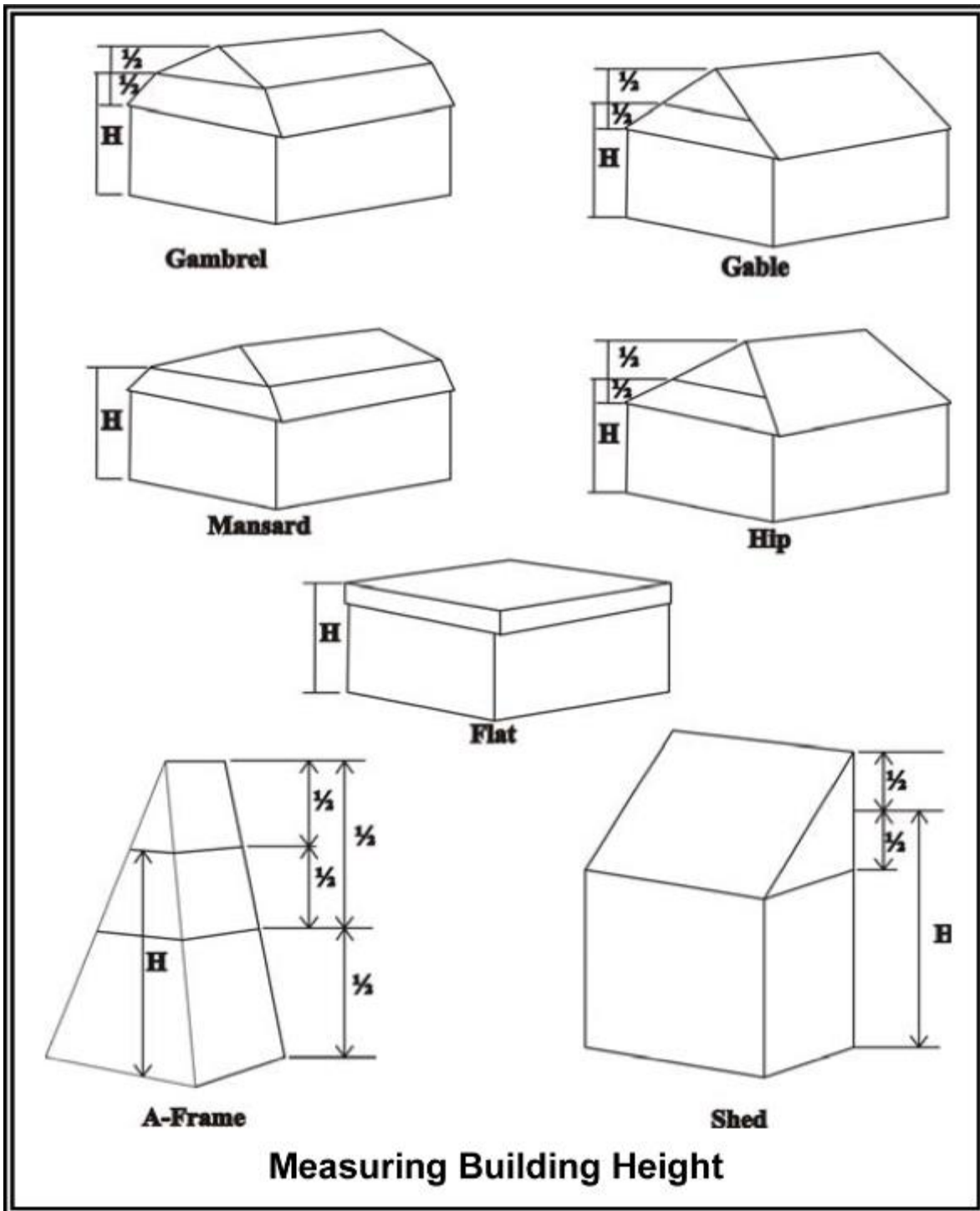
Buffer Area: An area, usually landscaped, intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

Building: A structure erected on site, a mobile home or mobile structure, a manufactured or precut structure, above or below ground, having a roof or walls and built for, or capable of, the shelter or enclosure of persons, animals, chattels, or property of any kind.

Building footprint: The area of a lot or site included within the surrounding exterior walls of a building or portion of a building, exclusive of courtyards. In the absence of surrounding exterior walls, the building footprint shall be the area under the horizontal projection of the roof.

Building height: The vertical distance measured from the established grade to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. When the terrain is sloping, the ground level is measured at the wall line. See Figure 2-1. The height of detached accessory structures shall be the distance from grade to the top of a parapet wall in the case of a flat roof, and to the peak of the roof for mansard, gable, hip, and gambrel roofs.

Figure 2-1



C

Cluster development: A development design technique that concentrates buildings in specific locations on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

Conservation easement: The term defined in Section 2140 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.2140.

Curb cut: The providing of vehicular ingress and egress between property and an abutting public street.

D

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

Direct recharge area: That portion of a drainage basin in which water infiltrating vertically from the surface will intercept the water table.

District: A portion of the incorporated area of the municipality within which certain regulations and requirements or various combinations thereof apply under the provisions of this ordinance.

Dwelling unit: A building or portion thereof, designed for occupancy by one (1) family for residential purposes and having cooking and sanitary facilities.

E

Earth berm: A mound of earth planted with ground cover, grass, trees, or other landscaping material intended to minimize the view of parking areas and reduce noise and dust from adjacent uses and passersby.

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

Erected: Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage and the like, shall be considered a part of erection.

Essential services: A public utility or municipal department utilizing underground, surface, or overhead gas, electrical, steam, fuel, or water transmission or distribution systems, collection, communication, supply or disposal system, but not including buildings.

Excavation: Any breaking of ground, except common household gardening and ground care.

F

Farm: The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

Family: A single individual doing their own cooking and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises or a separate housekeeping unit in a domestic relationship based upon birth, marriage, or other domestic bonds distinguished from a group occupying a boarding house, lodging house, club, fraternity, or hotel.

Fence: Any permanent partition, structure, or gate erected upon or near, but not limited to, the dividing line between adjoining property owners, for the purpose of separating, screening, enclosing or protecting property. Hedges, ornamental shrubs, trees and bushes shall be considered fences when placed in a manner or position to serve as such.

Floodplain (flood prone area): Any land area susceptible to being inundated by water from any source.

Floor area, gross: The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings. The "floor area" of a

building shall not include the basement floor area except when more than one half (1/2) of the basement height is above grade. "Floor area" shall include elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof), attic space having headroom of 7 feet, 10 inches or more, interior balconies, and mezzanines. Any space devoted to off street parking or loading shall not be included in "floor area."

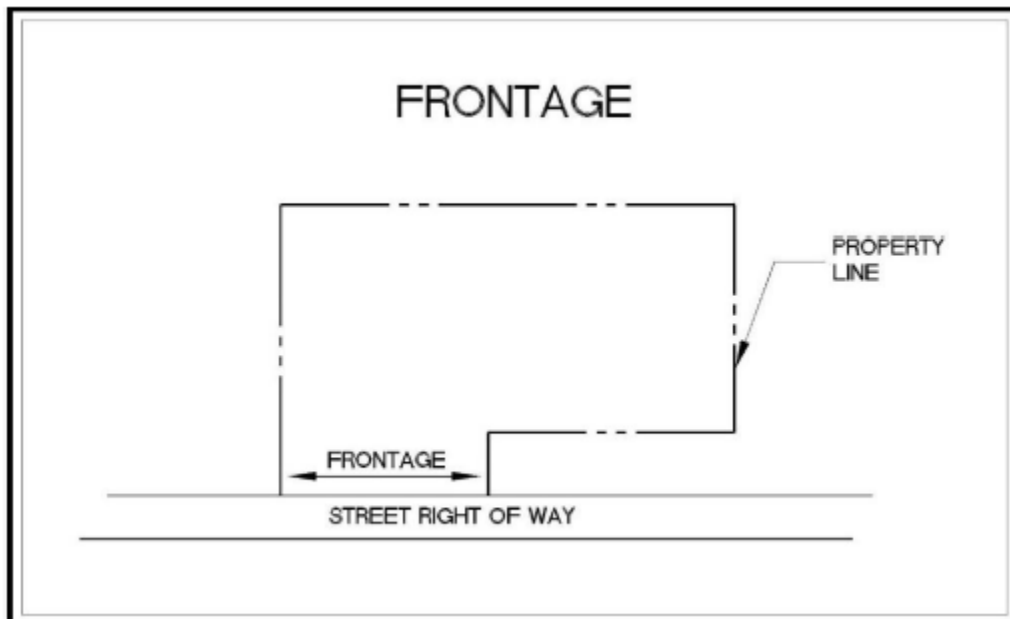
Floor area, residential: For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) dwellings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.

Floor space, usable: That area used for or intended to be used for the sale of merchandise or services, or for the use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

Foster care: The provision of supervision, personal care, and protection in addition to room and board, for 24 hours per day, 5 or more days per week, and for 2 or more consecutive weeks of compensation.

Frontage: The minimum width required in a use district which abuts a public right-of-way or private road. See Figure 2-2.

Figure 2-2



G

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

Governmental agency: Any department, commission, independent agency, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, authority, district, or governmental unit.

Grade: The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building, measured at a distance 4 feet out from the edge of the building.

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

Greenway: A contiguous or linear open space, including habitats, wildlife corridors, and trails, that links parks nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

Groundwater gradient: The slope (gradient) of the groundwater surface, thereby defining the direction of groundwater movement.

H

Historic district: An area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community of such significance to warrant conservation and preservation. A historic district officially exists when a local historic district is organized and then researches and determines the historic value of a specific area and makes it a local historic district, when it is placed the Michigan Register of Historic Places after research and evaluation, or when it is nominated or placed on the National Register of Historic Places.

I

Improvements: Those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, or welfare of the residents of the City of Flushing and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is subject to zoning approval.

Intensity of development: This means the height, bulk, area, density, setback, use, and other similar characteristics of development.

J

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. See Sec. 153.103(5) Storage of flammable materials.

K

Reserved, currently no definition pertaining to this ordinance.

L

Legislative body: The County Board of Commissioners of a County, the Board of Trustees of a township, the Council of a city or village, or other similar duly elected representative of a county, township, city, or village.

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

Local unit of government: A county, township, city, or village.

Lot: A measured portion of a parcel or tract of land, which is legally described and fixed in a recorded plat, or site condominium master deed.

Lot area: The total horizontal area within the lot lines of the lot.

Lot, corner: A lot abutting on and at the intersection of two or more streets.

Lot coverage: The part or percent of the lot occupied by buildings including accessory buildings.

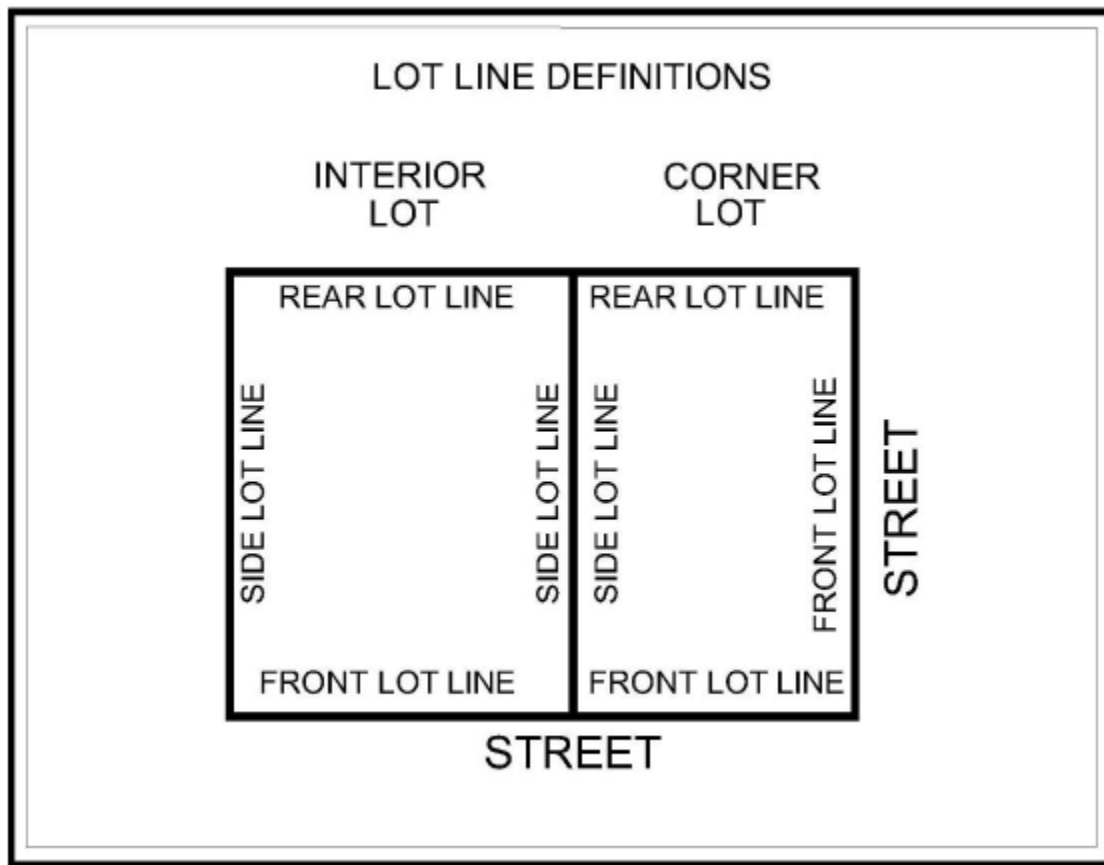
Lot depth: The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

Lot, interior: Any lot other than a corner lot.

Lot lines: The lines bounding a lot as defined herein (see Figure 2-3):

- (1) **Front lot line:** In the case of an interior lot, is that line separating said lot from the streets. For a corner lot, all lot lines abutting a street right-of-way are considered a front lot line.
- (2) **Rear lot line:** That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than 10 feet long lying farthest from the front lot line and wholly within the lot.
- (3) **Side lot line:** Any lot line other than the front or rear lot line. In the case of a corner lot, the property owner may choose which lot line is the rear lot line, and which is the side lot line.

Figure 2-3

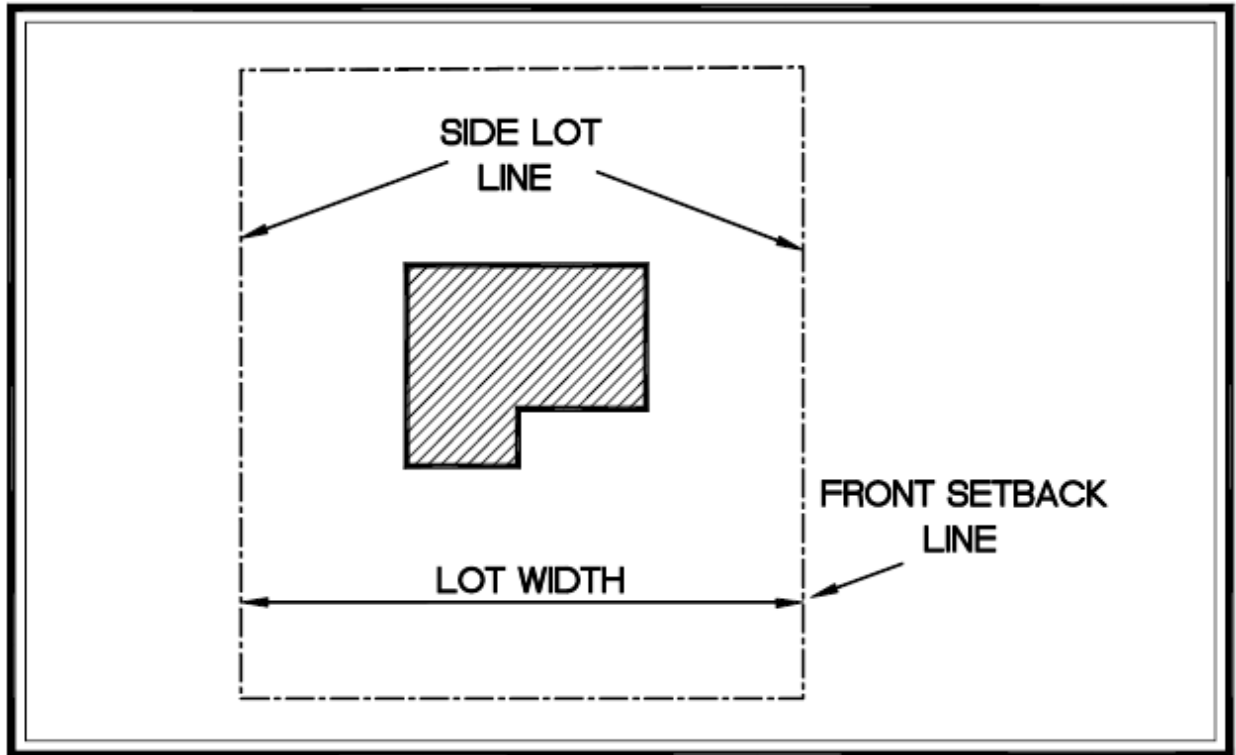


Lot of record: A lot which exists in a subdivision plat as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded. Whenever an owner has combined two (2) or more lots as contained on any recorded plat into a single building site, whereby more than one lot is necessary to satisfy the requirements of this ordinance, said combination of lots shall be deemed to be a single lot of record for the purposes of this ordinance.

Lot, through: Any interior lot having frontage on two (2) more or less parallel streets as distinguished from a corner lot.

Lot, width: The horizontal straight-line distance between the side lot lines, measured between the two (2) points where the front setback line intersects the side lot lines or in the case of a corner lot, the side lot line and opposite lot line. See Figure 2-4.

Figure 2-4



Lot, zoning: A single tract of land, which may include one or more lots of record, which conform to this ordinance for area, size, and frontage dimensions in the district.

M

Marijuana, also known as Marihuana or Cannabis: This term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code PA 368 of 1978, MCL 333.7106, as referred to in Section 3(d) of the Michigan Medical Marihuana Act MCL 333.26423 (d). Any other term pertaining to marijuana in the ordinance and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act or in the rules and regulations of the Michigan Department of Community Health issued with respect to the Act.

Master plan: The Comprehensive Community Plan including graphic and written proposals indicating the general location for streets, parks, schools, public buildings, and all physical development of the municipality, and includes any unit or part of such plan, and any amendment to such plan or parts thereof.

Medical use of marijuana: The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marihuana Act, P.A. 2008, Initiated law, MCL 333.26423(d).

Mezzanine: An intermediate floor in any story occupying not to exceed one third (1/3) of the floor area of such story.

Motorized home: A self-propelled motor vehicle which provides the amenities of day to day living while used as a means of transportation for recreational or travel purposes.

Municipality: City of Flushing, Michigan.

N

Non-conforming building: A building or portion thereof lawfully existing at the effective date of this ordinance, or amendments thereto and that do not conform to the provisions of the ordinance in the district in which it is located.

Non-conforming lot: Any lot, out lot, or other parcel of land which does not meet the land area or dimension requirements of this ordinance.

Non-conforming use: A use which lawfully occupied a building or land at the effective date of this ordinance, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

Nuisance factors: 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: 1) sound, 2) dust, 3) smoke, 4) odor, 5) glare, 6) fumes, 7) light, 8) vibration, 9) shock waves, 10) heat, 11) electronic or atomic radiation, 12) effluent.

O

Occupied: The word occupied includes arranged, designed, built, altered, converted to, rented or leased, or intended to be occupied.

Off-street parking facility: A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three (3) vehicles.

P

Parking space: An area of definite length and width, said area shall be exclusive of drives, aisles, or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

Planning Commission: The City of Flushing Planning Commission as established by the City of Flushing City Council under provisions of the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended.

Plot plan: A plat of a lot, drawn to scale, showing the actual measurements, the size and location of any existing structures or structures to be erected, the location of the lot in relation to abutting streets and other such information.

Population: The population according to the most recent Federal Decennial Census or according to a special census conducted under Section 7 of the Glenn Steil State Revenue Sharing Act of 1971, 1971 PA 140, MCL 141.907, whichever is more recent.

Porch or Deck: A projection on a building or structure containing a floor, which may be either totally enclosed or open.

Principal use or structure: The main use to which the premises are devoted and the principal purpose for which the premises exist.

Projections: Projections from a building that are necessary for the shading of a building or features such as sills, cornices, and chimneys. Such projections may extend into required yards only as allowed by the provisions of this ordinance.

Public building: Buildings devoted to the use of a governmental agency, as distinguished from buildings that are government financed, but are intended for private use; e.g., public housing.

Public utility: A person, firm, or corporation, municipal department, board, or commission duly authorized to furnish and furnishing under federal, state, or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, transportation, or water.

Q

Reserved, currently no definition pertaining to this ordinance.

R

Recharge pond/lagoon: A natural or manmade recharge area or pond designed and maintained to recharge stormwater, cooling water, and/or treated water to the groundwater at a rate greater than that is occurring naturally. (Please note that for certain discharges, a DNR discharge permit is required.)

Recreational vehicle: A vehicle which moves one (1) or more persons over the ground, air, water, ice, or snow, and which is either self-propelled or connects to a vehicle which is self-propelled.

Regulated substances: Substances to be regulated hereinafter referred to as regulated substances, as chemicals and mixtures of chemicals which are health hazards. Regulated substances are:

- (1) Those list of substances as defined and listed by the Michigan Occupation Safety and Health Administration, as regulated under Title III of the Superfund Amendments and Reauthorization Act (SARA) and as currently reported on MIOSHA safety data sheets.
- (2) Petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids).

Right-of-way: A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, waterline, sanitary storm sewer, and other similar uses.

Room: For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room, or bedroom. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, stairways, hallways, and storage. Plans presented showing one (1), two (2), or three (3) bedroom units and including a "den," "library," or other extra room shall count such extra room as a bedroom for the purpose of computing density.

S

Screening: A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing or walls.

Setback (required): The distance required to obtain minimum front, side, or rear yard open space provisions of this ordinance, except for roofs, which may project not more than 12 inches into the setbacks. See Figure 2-5.

Setback (actual): The distance between the lot line and existing principal building. See Figure 2-5.

Sexual Oriented Business (Also Known as Adult entertainment uses): Any use of land, whether vacant or combined with structures or vehicles thereon by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter or actions depicting, describing or presenting Specified Sexual Activities or Specified Anatomical Areas.

(1) Specified Sexual Activities:

- a. Human genitals in a state of sexual stimulation or arousal.
- b. Acts of human masturbation, sexual intercourse, or sodomy.

-
- c. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

(2) **Specified Anatomical Areas:**

- a. Less than completely and opaquely covered: 1) human genitals, pubic region; 2) buttock; and 3) female breast below a point immediately above the top of the areola.
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Adult entertainment use shall include, but not be limited to the following:

- (3) **An adult motion picture theater** is an enclosed building with a capacity of 50 or more persons used for presenting material which has a significant portion of any motion picture or other display depicting or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" for observation by patrons therein.
- (4) **An adult mini motion picture theater** is an enclosed building with a capacity for less than 50 persons used for presenting material which has as a significant portion of any motion picture or other display depicting, describing or presenting "Specified Sexual Activities" or "Specified Anatomical Areas."
- (5) **An adult motion picture arcade** is any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where a significant portion of images so displayed depict, describe or relate to "Specified Sexual Activities" or "Specified Anatomical Areas."
- (6) **An adult bookstore** is a use which has a display containing books, magazines, periodicals, slides, pictures, cassettes, or other printed or recorded material which has as a significant portion of its content or exhibit matter or actions depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" or an establishment with a (substantial) segment or section devoted to the sale or display of such material.
- (7) **An adult cabaret** is a nightclub, theater, or other establishment which features live performances by topless and/or bottomless dancers, "go go" dancers, exotic dancers, strippers, or similar entertainers, where a significant portion of such performances show, depict or describe "Specified Sexual Activities" or "Specified Anatomical Areas."
- (8) **An adult motel** is a motel wherein matter, actions or other displays are presented which contains a significant portion depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas."
- (9) **An adult massage parlor** is any place where for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatment, or any other treatment or manipulation of the human body occurs as part of or in connection with "Specified Sexual Activities" or where any person providing such treatment, manipulation, or service related thereto exposes "Specified Anatomical Areas."
- (10) **An adult model studio** is any place where, for any form of consideration or gratuity, figure models who display "Specified Anatomical Areas" are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such considerations or gratuities, except that this provision shall not apply to any bona fide art school or similar education institution.
- (11) **An adult sexual encounter center** is any business, agency, or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family may

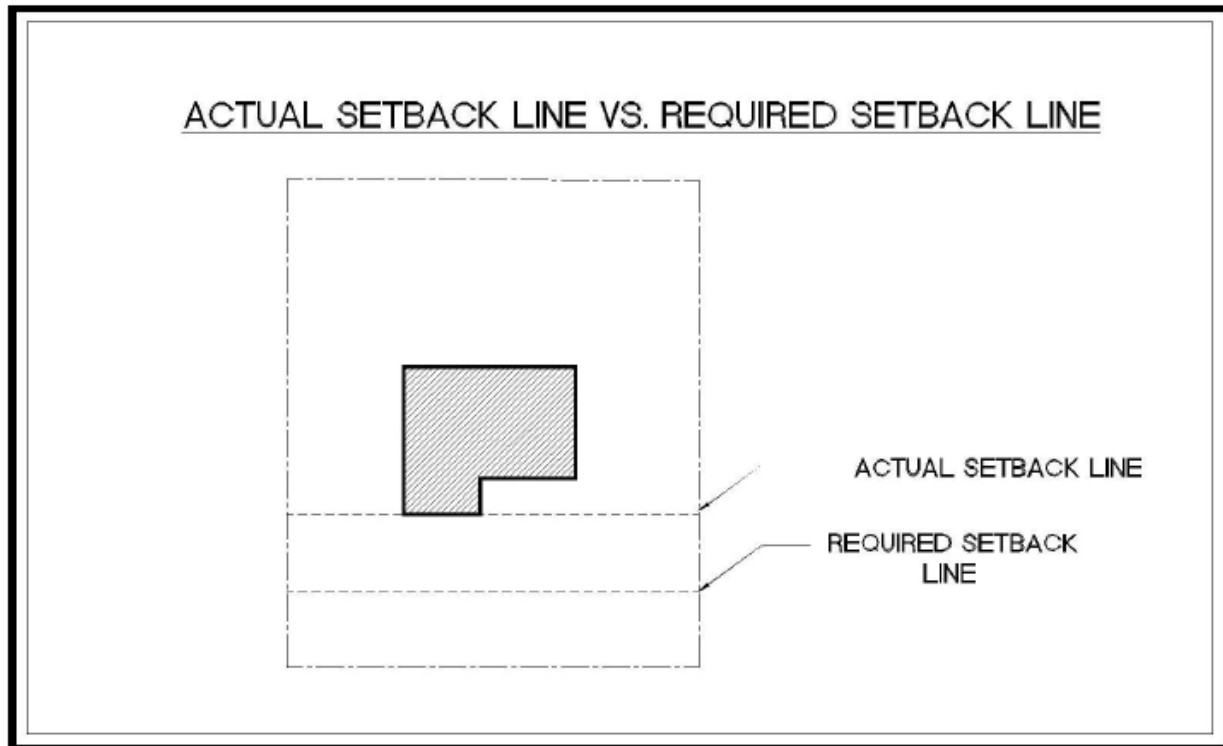
congregate, assemble, or associate for the purpose of engaging in "Specified Sexual Activities" or exposing "Specified Anatomical Areas."

Significant Portion: As used in the above definitions, the phrase "significant portion" shall mean and include:

- (1) Any one or more portions of the display having continuous duration in excess of five (5) minutes.
- (2) The aggregate of portions of the display having duration equal to 10 percent or more of the display.
- (3) The aggregate of portions of the collection of any materials or exhibits composing the display equal to 10 percent or more of the display.

Display: As used in the above definitions, the word display shall mean any single motion or still picture, presentation, dance or exhibition, live act, or collection of visual materials such as books, films, slides, periodicals, pictures, video cassettes, or any other printed or recorded matter which is open to view or available to the general population whether for free or otherwise.

Figure 2-5



Sign: A sign shall mean any object, device, logo, display, or structure, or part thereof, which is intended to advertise, identify, display, direct, or attract attention to a person, institution, organization, message, business, product, service, event, or location by any means. A sign shall include any banner, bulbs, or other lighting devices, streamer, pennant, balloon, propeller, flag (other than the official flag of any nation, state, or nonprofit organization) and any similar device of any type or kind whether bearing lettering or not. Signs shall not include murals or other artistic works displayed on buildings or structures.

- (1) **A-frame or sandwich board:** A movable sign not secured or attached to the ground or surface upon which it is located.

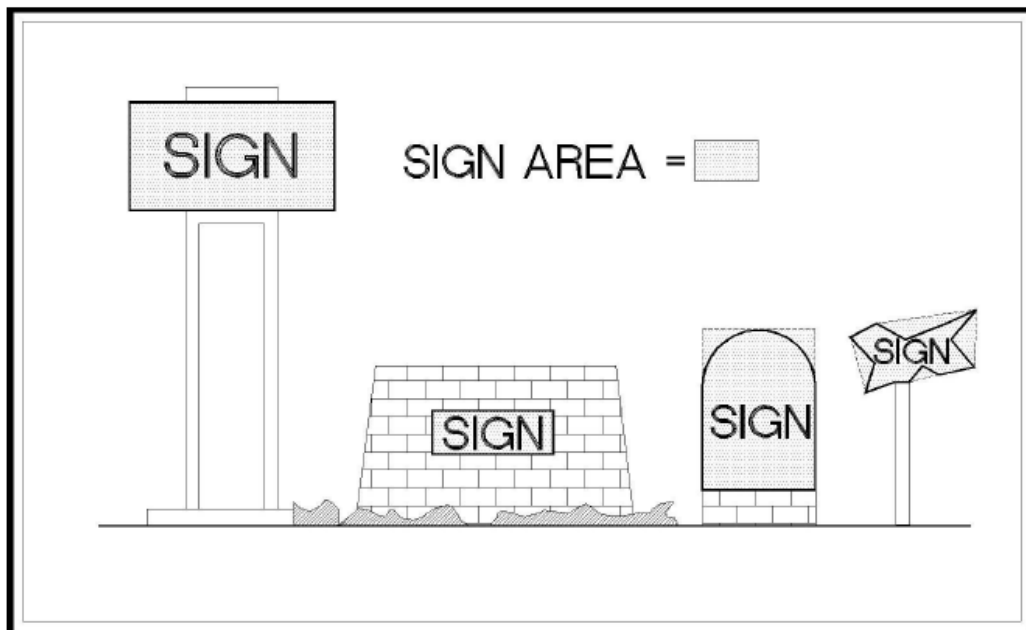
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- (2) **Accessory sign:** A sign which is accessory to the principal use of the premises.
 - (3) **Beacon lights:** Search lights, or intensive spotlights directed in an upward direction intended to attract attention to a business, event, or other use.
 - (4) **Bench sign:** A sign located on the seat or back of a bench or seat placed on or adjacent to a public right-of-way.
 - (5) **Off-premise sign:** Any sign which contains a message unrelated to or not advertising a business transacted or goods sold or produced on the premises on which the sign is located; also called a remote sign or non-accessory sign.
 - (6) **Canopy (awning) sign:** A sign that is mounted or painted on, or attached to, an awning or canopy projecting from and supported by the building and extending beyond the building wall, that is otherwise permitted by this ordinance.
 - (7) **Decorative display:** A temporary display designated for the entertainment or cultural enrichment of the public and having no direct or indirect sales or advertising.
 - (8) **Electronic/digital sign:** Signs whose alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed display screen composed of electrically illuminated segments.
 - (9) **Freestanding sign (pole or pylon):** A sign attached to a permanent foundation supported from the ground by one or more poles, posts, or similar uprights, with or without braces, upon which announcements, declarations, displays, etc., may be placed.
 - (10) **Inflatable sign:** A sign consisting of a balloon or other gas or air-filled figure that is not combustible.
 - (11) **Monument sign:** A sign attached to a permanent foundation and not attached or dependent for support from any building, pole, posts, or similar uprights.
 - (12) **Marquee sign:** A sign attached to or hung from a marquee, canopy, or other structure projecting from and supported by the building and extending beyond the building wall.
 - (13) **Portable sign:** Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; sign converted to a- or t-frames; menus and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.
 - (14) **Projecting sign:** A sign which is affixed to any building or structure other than a marquee, and any part of which extends beyond the building wall and the horizontal sign surface is not parallel to the building wall.
 - (15) **Roof sign:** A sign which is erected, constructed, and maintained above any portion of the roof or exterior wall of a building or structure, and for purposes of this Chapter, roof signs shall be prohibited.
 - (16) **Residential subdivision sign:** A permanent monument sign marking the entrance to a residential platted subdivision or condominium subdivision.
 - (17) **Temporary sign:** A sign, banner, or other advertising device constructed of cloth, canvas, fabric, plastic, or other light temporary material, with or without a structural frame, or any other sign, intended for a limited period of display.

(18) **Wall sign:** A sign which is attached directly to a building wall with the horizontal sign surface parallel to the building wall, including signs painted on any building wall. Wall signs shall not project above the roof or parapet line and may not project more than 1 foot beyond the face of the building wall.

(19) **Window sign:** A sign, either permanent or temporary and/or illuminated or non-illuminated, placed in the window area of any use located in a nonresidential district.

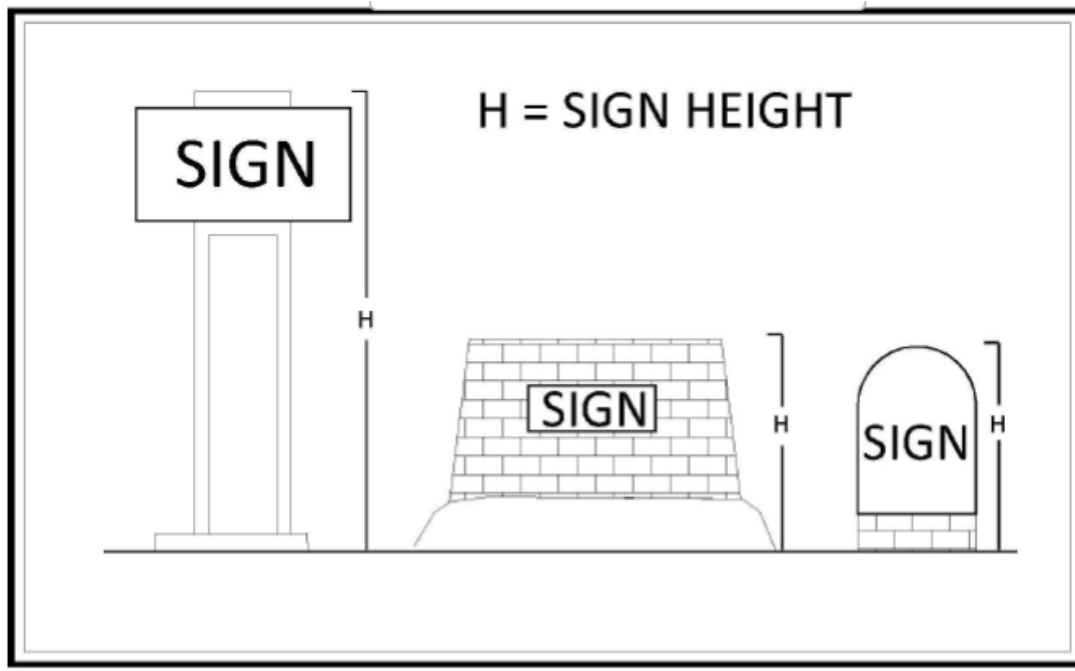
Sign area: The area of sign shall be computed as including the entire area within a regular geometric form or combination of such forms comprising all the display area of the sign and including all the elements of the matter displayed. An area so created shall include all solid surfaces, as well as all openings. Structural members not bearing copy of display material shall not be included in computation of sign area. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where two (2) such faces are placed back-to-back, parallel to one another, and less than 24 inches apart, the area of the sign shall be the area of one (1) face. Where a sign has two (2) or more faces, that portion of the sign structure connecting the sign faces shall not be used for display purposes. Signs painted on a wall are also regulated by the provisions of this Ordinance. See Figure 2-6. (Refer also to Sec. 153.905(1). Nonconforming Uses of Structures and Land.)

Figure 2-6



Sign height: The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of: 1) existing grade prior to construction; or, 2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zoning lot, whichever is lower. The sign shall be non-moving. See Figure 2-7.

Figure 2-7



Site plan: The documents and drawings required by the Zoning Ordinance to ensure that proposed land use or activity is in compliance with the City of Flushing Zoning and other ordinances and state and federal statutes.

Special use: Any use of land listed as a Principal Use Permitted Subject to Special Conditions which, due to its potential effect on adjacent lands, in particular, and the overall city in general, requires approval by the Planning Commission according to the standards as provided in this ordinance.

Story: That part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall not be counted as a story.

Story, half: An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of 7 feet. For the purposes of this ordinance, the usable floor area is only that area having at least 5 feet clear height between floor and ceiling.

Street: A public dedicated right-of-way, other than an alley, which affords the principal means of vehicular access to abutting property including emergency response vehicles.

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Subdivision: The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by their heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of the Land Division Act, Public Act No. 288 of 1967, as amended.

Swimming pool: Any constructed or portable pool, used for swimming or bathing over 24 inches in depth, a diameter exceeding 12 feet or with a surface area exceeding 160 square feet.

T

Temporary use or temporary building: A use or building permitted by the Planning Commission, or this ordinance, to exist during a specified period of time.

Tent: A moveable shelter made of canvas, skins, or other flexible materials supported by pole(s) or other framework. A tent is used exclusively for temporary purposes approved by the City of Flushing Planning Commission or Zoning Administrator as allowed by the ordinance for certain functions.

U

Underground storage tank: Any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. Flow-through process tanks are excluded from the definition of underground storage tanks.

Underlying zone: The zoning as it exists under the overlay zone.

Undeveloped state: A natural state preserving natural resources, natural features scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course, but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

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

V

Variance: Permission to depart from the literal requirements of the Zoning Ordinance.

Variance, nonuse: A departure from the provisions of the Zoning Ordinance relating to setbacks, side yards, frontage requirements, lot size, parking, signage, and other requirements of the applicable zoning district.

W

Wall, obscuring: A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this ordinance.

X

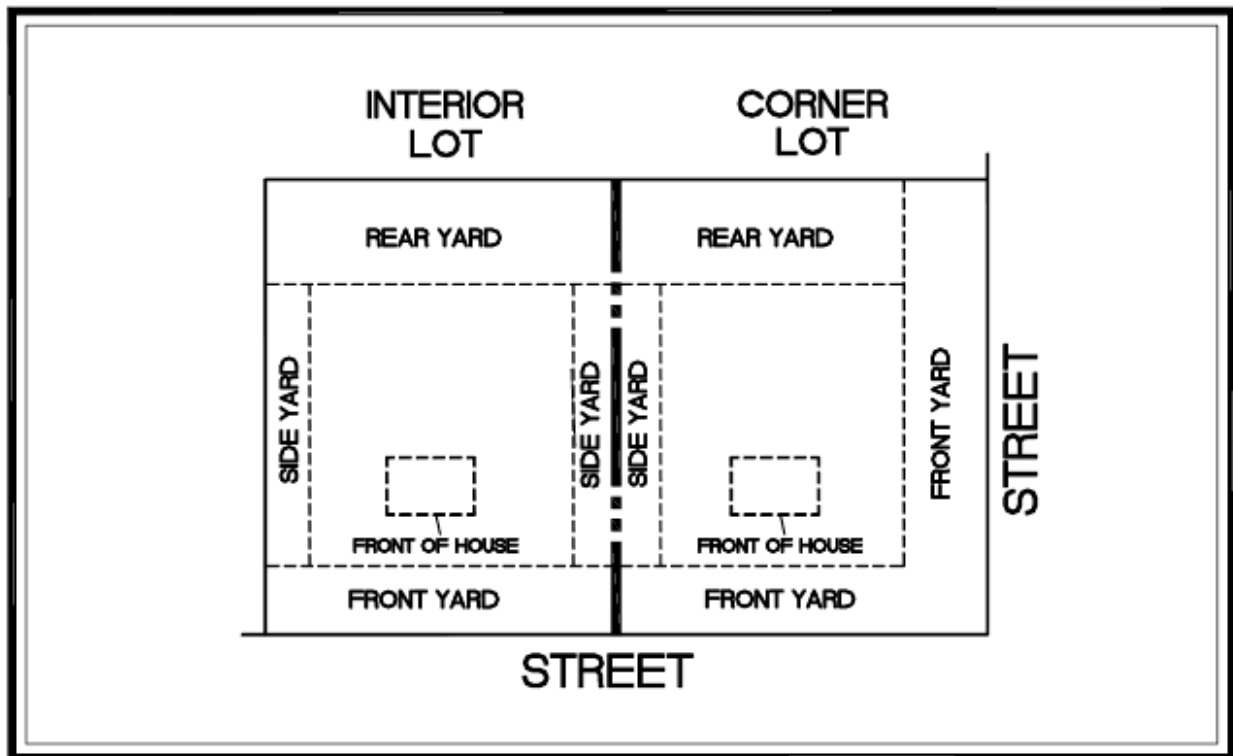
Reserved, currently no definition pertaining to this ordinance.

Y

Yards: The open spaces on the same lot with a main building that is unoccupied and unobstructed from the ground upward except as otherwise provided in this ordinance, and as defined herein (see Figure 2-8):

- (1) **Front Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building. In the case of corner lots, front yard shall be deemed to exist along each street frontage.
- (2) **Rear Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.
- (3) **Side Yard:** An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building.

Figure 2-8



Z

Zoning Board of Appeals: The City of Flushing Zoning Board of Appeals created under the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

Zoning district: A zoning district is a portion of the city within which, on a uniform basis, certain uses of land and buildings are permitted, and within which contain yard, open spaces, lot area, and other requirements are established by this ordinance.

Zoning jurisdiction: The area encompassed by the legal boundaries of the City of Flushing.

Zoning Official (Administrator): The administrative official designated by the City of Flushing Administrator with the responsibilities of administering and enforcing this ordinance.

Zoning permit: A written approval by the Zoning Administrator that is required before obtaining a building permit to commence construction, reconstruction, or alteration of any building or structures.

ARTICLE 3. DISTRICT REGULATIONS

Sec. 153.301. Districts Established.

For the purpose of this chapter, the city is hereby divided into the following zoning districts:

(1) Residential districts:

- a. Single-Family Residential District (R-1).
- b. Two-Family Residential District (R-2).
- c. Medium Density Residential (R-3A).
- d. High Density Residential (R-3B).
- e. Mobile Home District (R-4).

(2) Business districts:

- a. Local Business District (B-1).
- b. Central Business District (CBD).
- c. General Business District (B-2).
- d. Heavy Business District (B-3).
- e. Office-Service District (OS-1).
- f. Downtown Overlay District (DO).

(3) Industrial districts: (I-1).

(4) Overlay districts: Medium Density Residential Overlay (R-3A-O).

Sec. 153.302. District Boundaries.

The boundaries of zoning districts are defined and established as shown on a map entitled "City of Flushing Zoning Map" which is available for viewing at the city office. This map, with all explanatory matter thereon, is hereby made a part of this chapter.

Sec. 153.303. Official Zoning Map.

- (a) The boundaries of each district are shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.
- (b) The Official Zoning Map shall be identified by the signature of the mayor attested by the City Clerk, and bearing the seal of the city under the following words: "This is to certify that this is the Official Zoning Map referred to in DISTRICT REGULATIONS ARTICLE 3 of the City of Flushing Zoning Ordinance, as amended." The date of the

adoption of the map, the date of the Planning Commission public hearing and the effective date of the map shall also be shown on the map.

- (c) No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this chapter, the city charter and state law. Any unauthorized change of whatever kind by any person shall be considered a violation of this chapter and punishable under the city civil infractions ordinance.
- (d) The only true copy of the Official Zoning Map shall be located in the office of the City Clerk and shall be prima facie evidence as to the current zoning status of lands, buildings, and other structures in the city. The map shall be as much a part of this chapter as if the information set forth therein were fully described herein.
- (e) A copy (to be replaced yearly, at a maximum) made directly on by a direct copy process duplicating machine and initialed and dated by the City Clerk shall be kept at a separate location which shall, at a minimum, be separated from the true copy by a fire wall.

Sec. 153.304. Interpretation of District Boundaries.

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the Official Zoning Map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following lot lines;
- (3) Boundaries indicated as approximately following city limits shall be construed as following city limits;
- (4) Boundaries indicated as following railroad lines shall be construed to be following the railroad right-of-way line;
- (5) Boundaries indicated approximately parallel to the center lines of streets or highways shall be interpreted as being parallel thereto and at such distance therefrom as indicated by given distance or scaled dimension.

Sec. 153.305. Annexation.

Wherever any area is annexed to the city, one of the following conditions will apply:

- (1) Land that is zoned previous to annexation shall be classified as being in whichever district of this chapter most closely conforms with the zoning that existed prior to annexation, as determined by the Planning Commission.
- (2) Land not zoned prior to annexation shall be classified into whichever district of this chapter most closely conforms with the existing use, as determined by the Planning Commission.

Sec. 153.306. Zoning of Vacated Areas.

Whenever any street, alley, or other public way within the city shall have been vacated by action of the City Council, and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley, or public way, such lands formerly within such vacated street, alley, or public way shall automatically, and without further action of the City Council, thenceforth acquire and be subject to the same zoning regulations as

are applicable to lands to which such shall attach, and the same shall be used for the same use as is permitted under this chapter for such adjoining lands.

Sec. 153.307. Residential Districts.

- (a) *Single-Family Residential District (R-1).* The R-1 Single-Family Residential District is designed to accommodate and be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low density single unit detached dwellings along with other residentially related facilities which serve the residents in the district.
- (b) *Two-Family Residential District (R-2).* The R-2 Two-Family Residential District is designed to afford a transition of use in existing housing areas by permitting new construction or conversion of existing structures between adjacent residential and commercial, office, thoroughfares, or other uses which would affect the residential character. This district also recognizes the existence of older residential areas of the city where larger houses have been, or can be, converted from single-family to two-family residences in order to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization. This district allows the construction of new two-family residences where slightly greater densities are permitted.
- (c) *Medium Density Residential District (R-3A).* The R-3A Medium Density Residential District is designed to provide sites for multiple-family dwelling structures, and related uses, which will generally serve as zones of transition between the nonresidential districts and the lower density one-family residential districts.
- (d) *High Density Residential District (R-3B).* The R-3B High Density Residential District is designed to serve the needs of those who desire multiple-family dwelling types.
- (e) *Mobile Home District (R-4).* The R-4 Mobile Home District is designed to provide an area appropriate for mobile home park development.

Sec. 153.308. Business Districts.

- (a) *Office-Service District (OS-1).* The OS-1 Office-Service District is designed to accommodate office buildings and uses and basic personal services and is, as a use district, intended to serve the function of land use transition between the Commercial District and the adjacent Residential District.
- (b) *Local Business District (B-1).* The B-1 Business District is designed solely for the convenience shopping of persons residing in adjacent residential areas that permit only such uses as are necessary to satisfy those limited basic shopping or service needs which, by their very nature and size, are not related to the shopping pattern of the community or regional type of shopping center.
- (c) *Central Business District (CBD).* The CBD Central Business District is designed to provide for office buildings and the great variety of large retail stores and related activities which occupy the prime retail frontage by serving the convenience and service needs of the entire municipal area as well as a substantial area of the adjacent and surrounding residential developments beyond the municipal limits. The district regulations are intended to encourage retail development of a continuous retail frontage and by prohibiting automotive related services and non-retail uses which tend to break up such continuity.
- (d) *General Business District (B-2).* The B-2 General Business District is designed to furnish areas not served typically by the Central Business District with a variety of automotive services and goods incompatible with the uses and with the pedestrian movement in such Central Business District. The general business districts are characterized

by more diversified business types and are often located so as to serve the passerby traffic. General business districts, by special use permits, may include registered medical marijuana care providers.

- (e) *Heavy Business District (B-3)*. The B-3 Heavy Business District is designed to furnish areas not for commercial uses of a quasi-industrial nature, but which need the visibility to the general public and access that commercial businesses require. The uses often generate noise or smoke to a greater extent and may involve outdoor display or storage.
- (f) *Downtown Overlay District (DO)*. The DO Downtown Overlay District is designed to implement design standards on improvements within the historic downtown. The underlying zoning controls all normal district regulations including uses allowed and dimensional requirements. In addition, property within the Downtown Overlay District must comply with the design standards as outlined in Sec. 153.1203(a) and (d), and Sec. 153.1503.

Sec. 153.309. Industrial Districts.

The I-1 Industrial District is designed so as to primarily accommodate wholesale and warehouse activities, and industrial operations whose external, physical effects are restricted to the area of the districts. The I-1 district is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly, or treatment of finished or semi-finished products from previously prepared material. The intent of this Article is to prohibit the processing of raw material for shipment in bulk form, to be used in an industrial operation at another location.

Sec. 153.310. Overlay Districts.

The R-3A-O Medium Density Residential Overlay District is designed so as to primarily accommodate medium density residential uses including single-family and multiple-family uses. The intent of this Article is to permit existing industrial uses within the overlay area and to permit reinvestment and expansion of those uses at the property owner's discretion, but to encourage the long-term conversion of the property to residential uses.

Sec. 153.311. Planned Unit Development (PUD).

The Planned Unit Development zoning district is designed to provide a framework within which a developer, upon their initiation, can relate the type, design and layout of residential and/or commercial uses to a particular site and particular demand for housing and/or other local commercial facilities in a manner consistent with the preservation of property values within established residential areas. The section also provides an added degree of flexibility in the building design and land use arrangement so that a mixture of housing units and provision of common open space can be provided. The zoning district is intended to accommodate developments with mixed or varied uses, on sites with unusual topography or unique settings within the community, or on land which exhibits difficulty or costly development problems or sites that contain natural features such as wetlands or floodplains that are important for the city to retain in order to protect its character and shall not be allowed where this zoning classification is sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated purposes herein set forth. The City Council does hereby determine that the following regulations are the minimum requirements for the promotion and protection of the public health, safety and welfare. Some uses permitted in this district are required to comply with specific design standards.

- (1) *Permitted principal uses*. All permitted principal uses by right or by special use permit as identified in Sec. 153.311 Planned Unit Development (PUD), shall be permitted in the PUD district.

(2) *Standards for approval.* Based upon the following standards, the Planning Commission may recommend denial, approval, or approval with conditions, and the City Council may deny, approve, or approve with conditions the proposed planned unit development.

- a. Off-street parking shall be sufficient to meet the minimum required by the ordinances of the city (ARTICLE 5 OFF-STREET PARKING AND LOADING). However, if it is deemed necessary in order to achieve the purposes of this section, the Planning Commission may relax, modify and or increase parking requirements during site plan review.
- b. All streets within the planned unit development shall meet the minimum requirements of the chapter 152, subdivision regulations, unless modified by the Planning Commission.
- c. Landscaping shall be provided so as to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property (ARTICLE 8 LANDSCAPE STANDARDS). However, if it is deemed necessary in order to achieve the purposes of this ordinance, the Planning Commission may relax, modify and or increase landscaping requirements as part of site plan review.
- d. Judicious effort shall be used to ensure the preservation of the integrity of the land and the preservation of natural, historical, and architectural features.
- e. Surface water shall be retained on the site unless the applicant can demonstrate that to do so would be harmful to the environment or is not practical. In any case, storm water shall not flow off the site at a rate greater than the rate of flow prior to development. (Chapter 54 - Storm Water Management)
- f. The site shall have adequate lateral support so as to ensure that there will be no erosion of soil or other material. The final determination as to adequacy of, or need for, lateral support shall be made by the City Building Inspector and/or city engineer.
- g. The proposed density of the planned unit development shall be no greater than that which would be required for each of the component uses of the development in the zoning district in which it is permitted. However, if it is deemed necessary in order to achieve the purposes of the section, the City Council may permit increased density in return for increased open space. Non-contiguous property may not be used in calculating open space and under no circumstance shall the open space be located on non-contiguous property.
- h. A site zoned for PUD must be a minimum of 5 acres.

(3) *Traffic and accessory conditions.* The following regulations concerning traffic and accessory conditions shall be followed:

- a. Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the zoning district shall be provided.
- b. Drives and streets shall not be laid out to encourage outside traffic to traverse the development nor to create unnecessary fragmentation of the development into small blocks.
- c. No material impediment to the visibility of automotive traffic, cyclists or pedestrians shall be created or maintained.

(4) *Approval procedure.*

- a. The PUD zoning approval shall follow procedural requirements of ARTICLE 11 of this ordinance for amending the Zoning Ordinance. The Planning Commission shall hold a public hearing. The Planning Commission shall review the conceptual PUD development plan as described in Sec. 153.311(5) to determine its suitability for inclusion in the land use and zoning plans of the city and adoption by City Commission as part of the ordinance.
- b. The Planning Commission shall then submit the proposed amendatory ordinance to the City Council together with their recommendation and a summary of comments received at the public hearing.
- c. The City Council shall review the proposed PUD rezoning and approve or disapprove the request. Prior to their decision, the Council may accept proposed revisions to the concept plan or may resubmit the proposed changes to the Planning Commission for another public hearing.
- d. PUD site plan approval procedure may commence only after the acceptance by the City Council of the conceptual PUD development plan and the rezoning of the property as required.
- e. PUD site plan approval process shall follow the procedures for site plan approval outline in ARTICLE 6.

(5) *Conceptual PUD development plan requirements.*

- a. The applicant for PUD rezoning shall include as part of its application a conceptual PUD development plan that includes the following technical or graphic materials together with such fees as may be required.
- b. The PUD conceptual plan shall indicate the entire contiguous holding of the petitioner or owner who wishes to develop the entire parcel or any part thereof and shall include the area and use of land adjacent to the parcel to be developed. The plan shall exhibit any unusual problems of topography, utility service, land usage or land ownership. The plan shall also exhibit all existing and proposed structures, existing and proposed streets, open spaces and other features as required by ordinance or regulation.
- c. The conceptual plan shall show all proposed uses and allotted spaces, gross site area, street and vehicular access areas, number of each variety of habitable space, total number of dwelling units and total open space. The plan shall:
 1. Define the location of the areas to be devoted to particular uses.
 2. State the acreage to be devoted to the particular uses.
 3. Set forth the proposed density of the dwelling units by use type and of the entire project.
 4. Show the location of parks, open recreation areas, other open space and all public and community uses.
 5. The applicant shall present material as to the development's objectives and purposes to be served; conformity to plans and policies of the city; market needs; impact on public schools, utilities, and circulation facilities; impact on natural resources; and a staging plan showing the general time schedule of the expected completion dates of the various elements of the plan.
 6. Any additional graphics or written materials reasonably requested by Planning Commission or City Council to assist the city in visualizing and understanding the proposal shall be submitted.

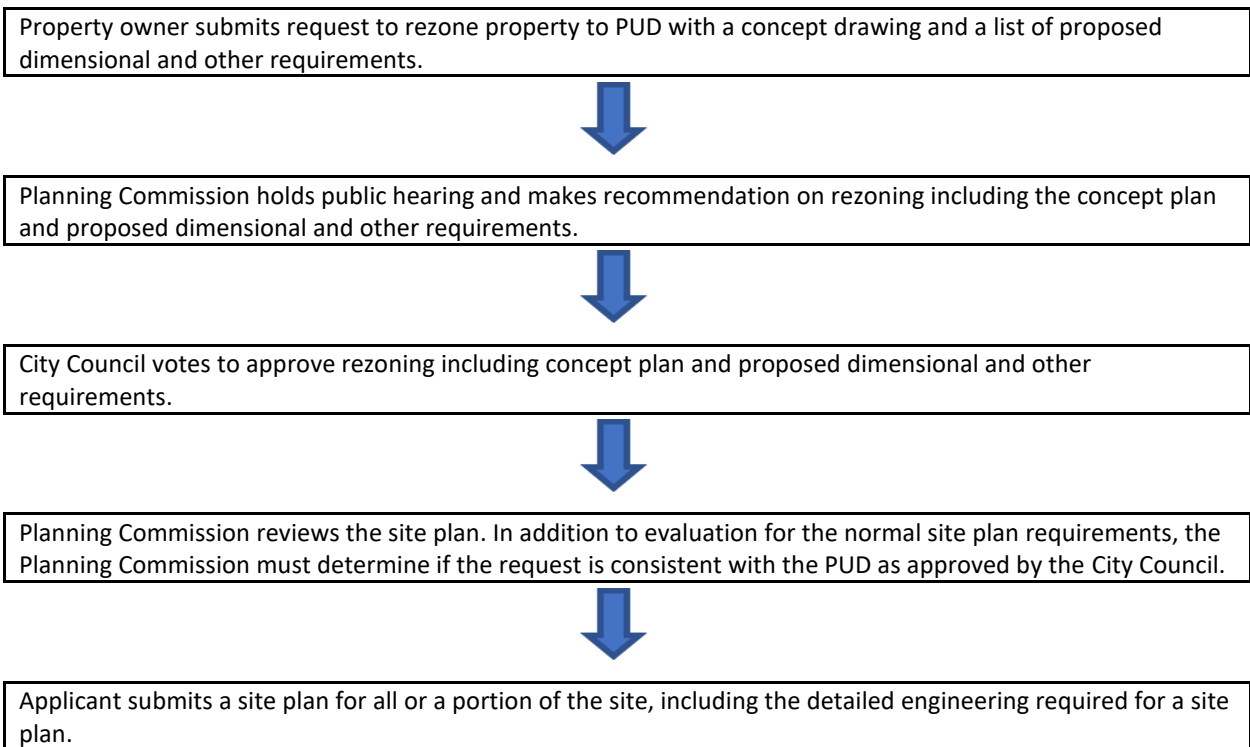
(6) *Site plan approval.* Following approval of the conceptual plan by the City Council, if the applicant wishes receive approval for all or a portion of the concept plan, the applicant shall submit site plans for phases of the approved conceptual PUD development plan. The site plans shall conform to the approved conceptual plan. The site plans shall be reviewed and approved by the Planning Commission following the procedures outlined in ARTICLE 6.

(7) *Deviations from approved PUD site plan.* Deviations from the approved plan may occur only under the following circumstances:

Minor changes to a previously approved PUD site plan may be approved without the necessity of Planning Commission or City Council action if the Zoning Administrator certifies in writing that the proposed revision does not alter the basic design, nor any specified conditions of the plan as agreed upon by the Planning Commission and the City Council. Any other change will require approval following the procedures outlined above for the original approval. Appeal of the Zoning Administrator's decision regarding the need for formal review by the Planning Commission and City Council is appealable to the Zoning Board of Appeals.

(8) *Design standards.* Some uses permitted in this district have required design standards as listed in Sec. 153.314. Table of Use Requirements. and ARTICLE 15 DESIGN STANDARDS. Such uses shall comply with those requirements unless modified by the city as part of the concept plan approval or through approval of a variance by the Zoning Board of Appeals.

PUD Process Flow Chart



(Ord. No. 2019-05 , Art. I, 9-9-2019)

Sec. 153.312. Specific Zoning Regulations

The following sections include the Table of Uses for permitted and special land uses in each zoning district, followed by the Table of Use Requirements which provide specific requirements for each use.

Sec. 153.313. Table of Uses

City of Flushing - Table of Uses	Zoning Districts												
Uses by Category (Key- P= Permitted Use S = Special Land Use)	R-1	R-2	R-3A	R-3B	R-4	B-1	CBD	B-2	B-3	OS-1	I-1	R-3A-0	MU
Residential Uses													
Accessory Buildings, Structures and Use	P	P	P	P	P	P	P	P	P	P	P	P	P
Accessory Dwelling Unit	S	S											S
Adult day care			S	S		S		S	S			S	S
Adult foster care family homes	P	P	P	P	P							P	
Adult foster care small group home (1-6 persons)	P	P	P	P								P	
Adult foster care small group home (7-12 persons)	S	S	S	S									
Adult foster care large group home (13-20 persons)				S									
Apartments on the ground floor level							S						
Apartments on the second-floor level or above							P	P					P
Bed and breakfasts	S	S	S										S
Convalescent homes / nursing homes			S	S				S	S			S	S
Conventional and site condominiums	S	S	S	S	S							S	S
Childcare home, family	P	P	P	P	P							P	
Childcare home, group	S	S	S	S	S							S	
Foster family group homes	P	P	P	P	P								
Foster family homes	P	P	P	P	P								
Home occupations	S	S	S	S	S		S					S	S
Mobile home parks					P								
Multifamily dwellings (including apartments and fraternity/sorority houses)				P	S								S
Planned unit development (PUD)	S	S	S	S								S	
Ponds	P	P	P	P	P	P		P		P	P	P	
Retirement Communities			S	S	S					S		S	
Satellite dish antenna	P	P	P	P	P	P	P	P	P		P	P	
Single-family dwelling units	P	P	P	P		S	S					P	S
Townhouses			P	P								P	P
Two-family dwellings		P	P	P			P					P	P

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(Supp. No. 4)

City of Flushing - Table of Uses	Zoning Districts													
Uses by Category (Key- P= Permitted Use S = Special Land Use)	R-1	R-2	R-3A	R-3B	R-4	B-1	CBD	B-2	B-3	OS-1	I-1	R-3A-0	MU	
Commercial Uses														
Antique shops						P	P	P					P	
Automobile rental establishments								S	S					
Automobile repair facilities								P	P					
Automobile sales, new or used								S	S					
Automobile wash establishments								S	S					
Banks							P	P		P			P	
Bus passenger stations								P						
Business schools, trade schools, or private schools operated for profit							P	P		P	P			
Childcare centers, commercial						S	S	S	S				S	
Cidery, distillery, microbrewery and winery						S	S	S	S		S		S	
Commercial solar energy collector											S			
Communication antenna	S	S	S	S	S	S	S	S	S	S	P	P	S	
Communication towers								S			S	S		
Crematoriums											S			
Drive-in establishments or open-front stores								S	S					
Drive-through establishments						S		S	S					
Farmers markets, permanent								P					P	
Funeral homes (mortuaries), excluding crematoriums							P	P		P				
Gas Stations							S	S	S		S			
General retail establishments, under 30,000 sq ft						P	P	P	P	P	P		P	
General retail establishments, over 30,000 sq ft						S		P	P		P		S	
Golf courses, miniature							P	P	P					
Greenhouses, nurseries, and garden centers							P	P	P					
Indoor Entertainment						S	S	P	P				S	
Medical and dental offices & clinics						P	P	P	P	P	P		P	
Mixed Use Buildings.							P			S			S	
Motel and hotels						S	S	S	S					

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(Supp. No. 4)

City of Flushing - Table of Uses	Zoning Districts												
Uses by Category (Key- P= Permitted Use S = Special Land Use)	R-1	R-2	R-3A	R-3B	R-4	B-1	CBD	B-2	B-3	OS-1	I-1	R-3A-0	MU
Other uses and services determined by the ZBA to be similar to other uses permitted within that zoning district						P	P	P	P	P	P	P	
Outdoor Entertainment								S	S		S		
Outdoor Storage								S	S		S		
Personal service establishments						P	P	P	P	P	P	S	P
Radio and television stations								P			P	P	
Registered medical marijuana caregivers								S					
Restaurants and taverns						P	P	P	P				S
Roadside Stands	P							P					P
Self-service laundry establishments								P	P				
Sexually-oriented establishments (subject to the provisions of the city Adult Entertainment Ordinance)								S					
Small engine repair and similar services								P			P	P	
Storage facilities, including but not limited to cold storage, dry storage (without outdoor storage)								P	S		P		
Studios for dancing, art, music, and other similar uses							P	P	P	P			P
Theaters, Indoor							P	P	P				S
Veterinary clinics						S	S	S	S		S	S	
Industrial Uses													
Contractor's Yard (Private Business storage yard)											S	S	
Hazardous materials storage								S	S		S		
Kennels, commercial									S		S	S	
Kennels, private	S	S							S		S	S	
Laboratories											P	P	
Pet grooming						P	S	P	P	P	P	P	
Warehousing, wholesaling, processing, and manufacturing facilities and establishments											P	P	
Institutional Uses													
Ambulance stations	S					P	P	P		P			

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City of Flushing - Table of Uses	Zoning Districts												
Uses by Category (Key- P= Permitted Use S = Special Land Use)	R-1	R-2	R-3A	R-3B	R-4	B-1	CBD	B-2	B-3	OS-1	I-1	R-3A-0	MU
Cemeteries	P	P	P	P								P	
Clubs, lodges, and fraternal organizations				S					S	S	P	S	
Fire stations	S					P	P	P		P			
Municipal buildings and public utility offices	S	S	P	P	S	P	P	P		P	P	P	
Museums							S	P		S			S
Outdoor Theater	P						P	P					
Parking garage or lot							S						
Public, parochial, charter and other private elementary, intermediate, or high schools	S	S	S	S						S		S	S
Public owned land	P	P	P	P		P	P	P		P	P	P	
Religious Institutions	S	S	S	S	S		S		S	S	P	S	
Stadiums and arenas including baseball, football, or other large facility with public seating	S							S			S		
Other Uses													
Electric Vehicle Charging Stations	P	P	P	P	P	P	P	P	P	P	P	P	P
Essential services, including but not limited to utility buildings and stations	P	P	P	P	P	P	P	P	P	P	P	P	P
Solar energy collectors	P	P	P	P	P	P	P	P	P	P	P	P	P
Temporary uses, buildings, and structures	P	P	P	P	P	P	P	P	P	P	P	P	P

Sec. 153.314. Table of Use Requirements.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Residential Uses			
Accessory Buildings, Structures and Use	A building or structure situated on the same lot as the principal use, the use of which is purely incidental to that of the principal use.	None	See Additional Requirements Sec. 153.314(a).
Accessory Dwelling Unit	A smaller, secondary dwelling on the same lot as a primary dwelling. Accessory Dwelling Units (ADUs) are independently habitable and provide the basic requirements of shelter, heating, cooking, and sanitation.	1 space per accessory dwelling unit	1. One ADU is permitted per lot. 2. The owner of the property must reside on the lot with the ADU. 3. An ADU shall be no larger than 800 square feet or the size of the primary dwelling, whichever is less. 4. ADUs shall meet all other standards for accessory structures and other relevant standards of this Zoning Ordinance and the City of Flushing code of ordinances.
Adult day care	These facilities provide temporary care for less than a 24-hour period for persons over the age of 18 years in a supervised environment.	1 space per employee on the largest working shift 1 space per 4 persons under care	The facility shall be licensed by the State of Michigan and/or other applicable agencies.
Adult foster care family homes	Private homes with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks.	2 spaces	1. The adult foster care family home licensees must provide the care and be a member of the household and an occupant of the home. 2. The facility shall be licensed by the State of Michigan and/or other applicable agencies.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Adult foster care small group home (1-6 persons)	Group homes that have the capacity to receive six or fewer adults to be provided with foster care.	2 spaces	The facility shall be licensed by the State of Michigan and/or other applicable agencies.
Adult foster care small group home (7-12 persons)	Group homes that have the capacity to receive not less than 7 or more than 12 adults to be provided with foster care.	2 parking spaces	1. The facility will meet the residential density requirements for the district it is located in based on one dwelling unit per six household members. See Sec. 153.402. 2. The facility shall maintain a valid state license to operate as an adult foster care small or large group home.
Adult foster care large group home (13-20 persons)	A group home that has the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.	4 parking spaces	1. The facility will meet the residential density requirements for the district it is located in based on one dwelling unit per six household members. See Sec. 153.402. 2. The facility shall maintain a valid state license to operate as an adult foster care small or large group home.
Apartments on the ground floor level	Dwelling units in a mixed use building located on the first floor. a. <i>One-bedroom unit</i> means a dwelling unit consisting of not more than one bedroom in addition to kitchen and living area and necessary sanitary facilities. b. <i>Two-bedroom unit</i> means a dwelling unit consisting of not more than two bedrooms in addition to kitchen and living area and necessary sanitary facilities. c. <i>Three- or more bedroom unit.</i> For the purpose of computing density, the three-bedroom unit shall be considered a three-room unit and each increase in a bedroom over three shall be an increase in the room count by one over the three. For the purpose of computing density, see ARTICLE 4.	1.5 spaces per apartment	1. The apartments shall not exceed 25 percent of the total gross floor area on the first floor. 2. The apartment shall be located in the rear portion of the building where the apartment's entrance or unit windows shall not be visible from the front lot line.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Apartments on the second floor level or above	Dwelling units in a mixed use building located on second floor or above. a. <i>One-bedroom unit</i> means a dwelling unit consisting of not more than one bedroom in addition to kitchen and living area and necessary sanitary facilities. b. <i>Two-bedroom unit</i> means a dwelling unit consisting of not more than two bedrooms in addition to kitchen and living area and necessary sanitary facilities. c. <i>Three- or more bedroom unit.</i> For the purpose of computing density, the three-bedroom unit shall be considered a three-room unit and each increase in a bedroom over three shall be an increase in the room count by one over the three.	1.5 spaces per apartment	For the purpose of computing density, see ARTICLE 4.
Bed and breakfasts	A single-family residential structure in which transient guests are provided a sleeping room and board in return for payment. The owner or operator of the facility must reside within the structure.	2 spaces for the residence 1 space per bedroom for rent	1. Bed and breakfast facilities shall be subject to the provisions of the city Bed and Breakfast Ordinance, adopted October 24, 1994, as amended. 2. No more than ten sleeping rooms, including sleeping rooms occupied by the operator/owner. 3. Food service is provided for guests staying in rooms only, and not for the general public. 4. There shall be no separate cooking facilities provided to bed and breakfast customers. 5. Occupancy by a guest shall be no more than seven (7) consecutive days. 6. Parking shall not be permitted within a required front yard.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Convalescent homes / nursing homes	Establishments primarily engaged in providing in-patient nursing and health related personal care, other than a private home, in which one or more adults who are aged or physically impaired by accident, disease, or otherwise disabled are received for care and supervision for extended periods. Establishments of this type include nursing homes, subacute care facilities, homes for the aged, intermediate care facilities, hospice, rest homes and other long-term care facilities.	1 space per 3 beds	1. No building shall be closer than 40 feet from any property line. 2. The building shall not exceed a height of two stories. 3. The density of development shall not exceed 12 beds per acre. 4. Licensing as required by the state.
Conventional and site condominiums	<i>Conventional condominium project</i> means a development in which ownership interest is divided under the authority of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.) and in which the condominium unit consists primarily of the dwelling or other principal structure and most of the land in the development is part of the general common area. <i>Site condominium project</i> means a development in which ownership interest is divided under the authority of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.) and in which the condominium unit consists of a building site, with or without structures, which along with associated limited common area, constitutes the equivalent of a lot.	See ARTICLE 13.	See ARTICLE 13.
Childcare home, family	A private home in which 7 or fewer minor children are received for care and supervision for compensation for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. The term "family child care home" includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.	2 spaces	1. The facility shall be licensed by the state, and shall comply with all state requirements for a family child care home. 2. There shall be fencing around any outdoor play areas. 3. The building shall retain the appearance of a single-family residence. 4. The facility shall not exceed 16 hours of operation in a 24-hour period.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Childcare home, group	A private home in which 8 to 14 children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. The term "group child care home" includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.	2 spaces	1. The facility is licensed by the state as a group child care home. 2. Fencing is provided around any outdoor play areas. 3. The building retains the appearance of a single-family residence. 4. The use does not exceed 16 hours of operation in a 24-hour period. 5. The use is no closer than 1,500 feet to another licensed group child care home.
Foster family group homes	A private home in which more than 4 but fewer than 7 minor children, who are not related to an adult member of the household by blood or marriage are provided care for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian.	2 spaces	1. The facility is licensed by the state as a foster family group home and complies with state requirements for a foster family group home. 2. The building retains the appearance of a single-family residence.
Foster family homes	A private home in which 1, but not more than 4, minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian.	2 spaces	1. The facility is licensed by the state as a foster family home. 2. The building retains the appearance of a single-family residence.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Home occupations	<i>Home occupation</i> means an occupation for gain or support, commonly involving the performing of a process or service or the creating of a product, conducted within a dwelling unit.	None	1. All home occupations shall be so conducted as not to be visible on the exterior of a dwelling. 2. Traffic and delivery of goods created by the home occupation shall not exceed that normally created by residential uses. 3. Not over 25 percent of the floor area of any one story may be used for the home occupation. 4. The home occupation shall be conducted only by members of the family residing on the premises. 5. No product stored or process undertaken in conjunction with the home occupation shall be injurious or obnoxious to the surrounding neighborhood because of noise or odor. 6. Home occupations shall be consistent in character with the surrounding residential area. 7. In the OS-1 district, the use of a structure for residential purposes or for joint residential and office use, shall be subject to the following conditions: The structure must have been used for residential purposes at the time of the effective date of the ordinance from which this Article is derived or the effective date of the parcels being rezoned to the office-service district.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Mobile home parks	A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.	See Design Standards.	Mobile home parks shall be developed to the standards established by the Michigan Manufactured Housing Commission.
Multi-family dwellings (including apartments and fraternity/sorority houses)	A building designed as a residence for three or more families living independently of each other, unless meeting the definition of <i>Townhouse</i> .	1.5 spaces for each dwelling unit Additional spaces required for accessory uses like offices and recreational uses per standards in this ordinance.	Unless a building is part of an adaptive re-use or on a site that must accommodate unique constraints like steep slopes, Multiple-family dwellings shall meet the following standards: 1. Building fronts shall have entrances and windows and face a public street. 2. Parking areas shall not be located in the front yard of new multi-family buildings, and must be effectively screened via landscaping, fencing, and/or walls from adjacent uses. 3. Each elevation that faces a street shall consist of a minimum of 60 percent masonry, excluding windows. Masonry includes standard size brick, cultured stone, and architectural pre-cast concrete. The balance of the elevations may be constructed of wood siding, fiber cement siding, stucco, wood shingle or other natural materials.
Planned Unit Development (PUD)	An integrated and coordinated development of various residential land uses and developed in accordance with the conditions as prescribed under the provisions of Section Sec. 153.311.	See Sec. 153.311.	See Sec. 153.311.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Ponds	Any manmade body of water or natural body of water altered by filling or enlarging that is not more than 2 acres in size. A manmade or natural body of water larger than 2 acres in size is a lake.	None	See Additional Requirements Sec. 153.314(d).
Retirement Communities	<i>Retirement communities, mixed use</i> , means facilities that include a range of housing options and medical and household services to residents in order to allow them to age in place.	1 space per employee on the largest shift 1 space per 3 beds or dwelling units	1. Uses permitted include long-term care facilities, assisted living facilities, independent living facilities, senior housing, extended care facilities, adult day care facilities, as well as recreational and service facilities primarily for the use of the residents. 2. All residents of the community must be at least 55 years of age. 3. Permitted overall density is 12 dwelling units or beds per acre. 4. At least 20 percent of the site must be retained as open space/recreation area.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Satellite dish antenna	A satellite dish that is greater than 1 meter in diameter.	None	1. Shall not be erected in any front yard. 2. Stations shall not be linked to receivers which are located beyond lots adjacent to the lot on which the satellite dish is located. 3. Satellite dish antennas may not be located nearer than 6 feet from a side or rear lot line and may not be located or placed on an easement. 4. The size of the satellite dish antenna shall not be greater than 6 feet in diameter and shall not rise from the ground level in excess of 15 feet in height, at its maximum point. 5. No advertising message or other graphic representation shall be allowed. 6. Satellite dish antennae shall be located and screened so as to minimize the impact on surrounding property. 7. Satellite dish antenna signal receiving stations in existence at the date of the adoption of the ordinance from which this Article is derived which do not comply with all the provisions of this chapter are hereby determined to be an existing nonconforming use within the meaning of this chapter and, as such, shall have the protections afforded, and be subject to the restrictions imposed on nonconforming uses by this chapter.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Single-family dwelling units	A building occupied by but one family and so designed and arranged as to provide living, cooking, and sleeping accommodations for one family only.	2 spaces	See Additional Use Regulations Sec. 153.314(g).
Townhouses	A series of single-family dwelling units connected by common sidewalls, each with its own outside entrance and exit, and constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by party walls or are located immediately adjacent thereto with no visible separation between walls or roofs.	2 spaces per dwelling unit	1. The minimum distances between buildings contained in ARTICLE 4 of this chapter shall apply. For purposes of this section, all required distances shall apply regardless of actual fee title ownership. 2. Each dwelling unit, including the appurtenant land areas, shall have direct frontage upon a properly dedicated public or private street. The minimum street frontage shall be 24 feet. 3. No building shall be divided into more than eight dwelling units. 4. Each building site shall have a side yard of 10 feet on each end of the building structure.
Two-family dwellings	A building occupied by but two families and so designed and arranged as to provide living, cooking, and sleeping accommodations for two families only.	2 spaces per dwelling unit	1. Two parking spaces are provided for each unit. Parking spaces shall be located off-street and in the side or rear yard. 2. The architectural appearance of the structure from the right-of-way shall be consistent with that of other dwelling units within the same neighborhood. 3. At least one dwelling entrance must face the public right-of-way. For corner lots, it is preferable to have one entrance face each right-of-way.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Commercial Uses			
Antique shops	A shop specializing in the resale of older goods and merchandise.	1 space per 300 square feet of gross floor area	None.
Automobile rental establishments	A business offering the rental of automobiles, light trucks, vans, boats, and the like, including incidental parking and servicing of vehicles for rent or lease.	1 space for each vehicle within the rental fleet, 1 space per employee on the largest working shift, plus 1 space per 300 square feet of sales area / office space	All parking areas for the storage of rental vehicles must be screened from any abutting residentially used parcel or zoning district by a 6-foot-tall wall, fence, or landscaped buffer.
Automobile repair facilities	Any building, or structure, used for the repair and maintenance of automobiles, boats, motorcycles, trucks, trailers, or similar vehicles, including body, fender, engine, muffler, upholstery work, or oil changes.	One per 200 square feet of usable floor area of sales room, and 1 for each auto service stall in the service room	1. Adequate provisions must be made for the safe storage, use and disposal of all hazardous substances. 2. Use must be screened from any residentially used parcel or zoning district with a 6-foot-tall wall, fence, or landscaped buffer.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Automobile sales, new or used	Any business establishment that sells or leases new or used automobiles, trucks, vans, trailers, recreational vehicles, boats, motorcycles, or similar motorized transportation vehicles.	1 space per 300 square feet of usable floor area 1 space per employee on the largest working shift Parking spaces for employees and customers shall be clearly demarcated from parking spaces for display of vehicles.	1. All on-site vehicle storage must be screened from any abutting residentially used parcel or district with a 6-foot-tall wall, fence, or landscaped buffer. 2. For uses involving outdoor display, landscaping shall be provided adjacent to the right-of-way that does not obscure the view of the display area. The vehicles may not be parked in the landscaped area.
Automobile wash establishments	The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other equipment.	1 space per employee on the largest working shift, plus 1 space per 300 square feet of retail sales area	1. The facility must be connected to the city sanitary sewer system. 2. Any structures, vacuums or other machinery must be located at least 100 feet from a residence. 3. Adequate provisions must be made for the safe storage, use and disposal of all hazardous substances. 4. Automobile wash establishments with a drive-through must comply with all design standards for the use "<i>Drive-through establishments</i>".

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Banks	A financial institution including banks, credit unions, and related uses that is open to the public, engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.	1 per 300 square feet of usable floor area	1. Drive-through banking facilities shall be designed to minimize the impact on the neighborhood and surrounding properties. 2. Banks with drive-throughs must comply with all design standards for the use "<i>Drive-through establishments</i>".
Bus passenger stations	Any premises for the transient housing or parking of buses, or the like, and the loading and unloading of passengers.	Parking to be determined by the Planning Commission based on the number of employees, and the planned use of the station.	Use must be screened from any residentially used parcel or zoning district with a 6-foot-tall wall, fence, or landscaped buffer.
Business schools, trade schools, or private schools operated for profit	Place of education providing more specific, technical, job training skills and knowledge to trades such as, but not limited to, electricians, plumbers, carpenters, mechanics, dental hygienists, veterinary technicians, HVAC technicians, and other similar trades.	1 per 3 persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes	None.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Childcare centers, commercial	A facility, other than a private residence, receiving one or more preschool or school-age children for care for periods of less than 24 hours a day, where the parents or guardians are not immediately available to the child. The term "child care center" or "day care center" includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program, or drop-in center.	1 per employee at largest shift plus 1 per each three children of approved capacity	1. For each child so cared for, there shall be provided and maintained a minimum of 100 square feet of outdoor play area. 2. There shall be a play space with a total minimum area of at least 1,000 square feet, which and shall be fenced or screened from any adjoining land with planting. 3. State licensing as required. 4. Must provide for adequate drop off and waiting spaces so that cars are not stacked in a public right-of-way. 5. A copy of the State Fire Marshal's inspection/report shall be submitted as part of the application package and reviewed by the City Fire Department for a report to the Planning Commission.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Cidery, distillery, microbrewery and winery	The processing of cider, beer, wine, spirits and other alcoholic beverages regulated by the Michigan Liquor Control Code. This process is performed on site through the combination or mixing of ingredients within an enclosed structure. Such facilities are permitted with or without tasting rooms or tap rooms. Retail sales of the alcoholic beverages produced on the site are permitted along with retail sales of related products.	1 space per 4 seats available in a dining area or tap room 1 space per employee on the largest working shift	1. The cidery, distillery, microbrewery and winery must, if required, be properly licensed by any state or federal regulatory agency, including the Michigan Liquor Control Commission. 2. All cidery, distillery, microbrewery and winery are permitted a tasting room or tap room that shall be completely separate from the area designated for the manufacturing of the primary alcoholic beverages/products. 3. For retail sales and food services (if permitted by law) at a cidery, distillery, microbrewery or winery in a commercial district, the sales and service must be clearly accessory to the production of the beverage being processed. 4. Any outdoor eating areas shall be in compliance with section 110.09 - outdoor cafes of city ordinance.
Commercial solar energy collector	<i>Solar energy collector</i> means a panel or panels and/or other devices or equipment, or any combination thereof, that collect, store, distribute and/or transform solar, radiant energy into electrical, thermal or chemical energy for the purpose of generating electric power or other form of generated energy for use in or associated with a principal land use on the parcel of land on which the solar energy collector is located and if permitted for the sale and distribution of excess available electricity to an authorized public utility for distribution to other lands.	1 per employee on the largest shift, if there are consistently employees on site	See Additional Use Regulations Sec. 153.314(c).

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Communication antenna	<i>Communication antenna</i> means any exterior transmitting or receiving device mounted on a tower, building or alternative tower structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies, radar signals, wireless communications signals, or other communication signals.	None	1. Materials used to shield the antenna and associated electrical equipment shall be aesthetically compatible with the surrounding structures and area in terms of color and texture. 2. The appearance and character of the structure will not be significantly altered with the addition of the antenna and related equipment. 3. The height of the existing structure will not be significantly increased with the addition of the antenna. 4. The antenna and any associated structures and guy wires shall be inaccessible to the general public.
Communication towers	<i>Communication tower</i> means a radio, telephone, cellular telephone or television relay structure of skeleton framework, or monopole attached directly to the ground or to another structure, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals.	1 space per employee at largest shift, if there are consistently employees on site	See General Provisions Sec. 153.120.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Crematoriums	A facility containing a certified apparatus intended for use in the act of cremation of human or pet remains.	1 space per 300 square feet of usable floor area plus 1 space per employee at largest shift	1. All cremation facilities must be within an enclosed building. 2. All remains, prior to incineration, must be stored in an enclosed building. 3. Stack heights must be elevated to a height necessary to ensure that emissions from the stack do not result in excessive concentrations of any smoke in the immediate vicinity of the source as a result of atmospheric downwash, eddies, and wakes which may be created by the source itself or nearby structures. If the height exceeds the maximum height allowed for the zoning district, the Planning Commission may allow a taller stack after a public hearing. 4. The setbacks for such stack from all abutting streets or adjacent parcels shall be a distance equal to the height of such stack. 5. Must demonstrate compliance with all applicable state, federal, and county regulations.
Drive-in establishments or open-front stores	A business establishment so developed that its retail or service character is dependent on providing a driveway parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, regardless of whether self-service is involved or not, rather than within a building or structure.	1 space per 50 square feet of waiting area	1. A setback of at least 60 feet from the right-of-way line of any existing or proposed street shall be maintained. 2. Use must be screened from any residentially used parcel or zoning district with a 6-foot-tall wall, fence, or landscaped buffer.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Drive-through establishments	A business establishment that provides customers with the opportunity to pay for and receive goods or services without leaving their car. A drive-through establishment is distinguished from a drive-in establishment by the fact that drive-through operations involve a driveway approach that the customer uses to enter the service area, receive service and depart, while a drive-in involves parking spaces the customer parks in to receive service. Drive-through establishments may be accessory to other primary uses, such as banks or fast food restaurants.	Based on the primary use of the site.	See Additional Use Regulations Sec. 153.314(b).
Farmers markets, permanent	A commercial establishment selling produce and other farm products, whether or not produced on the property, at retail to customers, not unlike a grocery store.	1 space per 200 square feet of gross floor area of activity area	1. A farm market may be a physical structure such as a building or tent, or simply an area where a transaction between a customer and a farmer is made. The farm market does not have to be a physical structure. 2. The farmer's market shall have the appropriate permit to operate as required by the city. 3. Shall meet the Generally Accepted Agricultural Management Practices (GAAMPs) established by the Michigan Department of Agriculture pursuant to the Michigan Right to Farm Act.
Funeral homes (mortuaries), excluding crematoriums	A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles.	1 space per 3 persons allowed within the maximum occupancy load	None.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Gas Stations	A space, building or structure designed or used for the retail sales or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles along with associated retail services.	1 space per gas pump, plus 1 space per employee on the largest working shift	1. Accessory uses such as the sale of convenience goods, and car wash facilities may be permitted, provided adequate parking is provided and the accessory uses do not change the general characteristics of the use. 2. Adequate provisions must be made for the safe storage, use and disposal of all hazardous substances. 3. A maximum of two ingress/egress points are allowed. 4. Repair work shall be permitted as an accessory use only or as a separate use on the same parcel. 5. Any underground storage tank must be permitted by the appropriate State of Michigan agency and regularly inspected according to state requirements.
General retail establishments, under 30,000 sq ft	A commercial enterprise that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.	1 space per each 300 square feet of usable floor area	None.
General retail establishments, over 30,000 sq ft	A commercial enterprise that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.	1 per each 400 square feet of usable floor area	None.
Golf courses, miniature	A theme-oriented recreational facility, typically comprised of 9 or 18 putting greens, each with a "cup" or "hole".	2 spaces per hole, plus 1 space per employee at largest working shift	All mini-golf courses shall be fenced on all sides with a 4-foot wall or fence.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Greenhouses, nurseries, and garden centers	An establishment for the growth, display, and/or sale of plants, shrubs, trees and materials used in indoor or outdoor planting.	1 space per employee on the largest working shift 1 space per each 500 square feet of usable floor area	- Any stockpiles of soils, fertilizer or similar loosely packaged materials shall be sufficiently covered or contained to prevent dust or blowing of materials. - All loading and truck maneuvering shall be accommodated on site. - All loading zones and stockpiles of material must be screened from public view. - A landscaping buffer zone shall be provided along all property lines adjacent to a residential district. - Products incidental to gardening and landscaping such as, fertilizers, garden tools may also be offered for retail sale.
Indoor Entertainment	Uses for recreation completely contained within a building. Such uses include bowling alleys, indoor archery ranges, ice skating rinks, roller rinks, arcades, golf simulators, and other similar uses as determined by the Planning Commission.	1 space per 3 persons allowed within the maximum occupancy load	None.
Medical and dental offices & clinics	An establishment where human patients who are not lodged overnight are admitted for examination and treatment by one or more physicians, dentists, other health care professionals, or similar professions.	1 space per 200 square feet of usable floor area in the waiting room and 1 for each examining room, dental chair, or similar use area	Where the use abuts a residentially zoned district or used parcel, a screening element at least 6 feet in height is required across the length of the abutting property line.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Mixed Use Buildings.	The development of a tract of land or building or structure with two or more different uses such as but not limited to residential, office, retail, public, or entertainment, in a compact urban form.	Varied based on use(s).	Varied based on use(s).
Motel and hotels	A building or buildings in which lodging is provided and offered to the public for compensation.	1 space per rental unit, plus 1 space per employee on the largest working shift	1. It must be demonstrated that ingress and egress do not conflict with adjacent business uses. 2. No kitchen or cooking facilities are to be provided in the units, with the exception of units for the use of the manager or caretaker. 3. Each unit shall contain not less than 250 square feet of floor area. 4. Guests shall not establish residence for more than 30 days within any calendar year.
Other uses and services determined by the ZBA to be similar to other uses permitted within that zoning district	N/A	Based on use.	Based on use. Use must be permitted by right and cannot be subject to special land use review requirements.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Outdoor Entertainment	A recreational facility where the primary activity occurs outdoors. Examples include driving ranges, and amusement parks.	1 per 3 persons of maximum capacity	- Such uses shall be fenced on all sides with a 6-foot wall or fence. - All outdoor lighting shall be shielded from projecting onto or into an adjoining residential zoning district or a residentially used lot and shall not interfere with driver visibility on a public right-of-way. - There shall be no broadcast of continuous music or announcements over any loudspeaker or public address system. - Site must comply with all applicable performance standards and City Ordinances, such as sound. - All parking must be contained on the same parcel as the use.
Outdoor Storage	The storage of any material for a period greater than 48 hours, including items for sale, lease, processing, and repair not in an enclosed building. This does not include automobile sales.	None	- The storage area shall be screened from public right-of-way and any residentially used parcel or zoning district by a 6-foot-tall fence, wall, or landscaping buffer. - Adequate provisions must be made for the safe storage, use and disposal of all hazardous substances. - If hazardous materials are stored on site, use must comply with the design standards for hazardous material storage.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Personal service establishments	A service business catering to the needs of individuals. Establishments providing services, including but not limited to beauty and barber shops; clothing rental; dry cleaning pick-up stores; laundromats; shoe repair shops; tanning salons, and the like. These uses may also include accessory retail sales of products related to the services provided.	1 per each 200 square feet of useable floor area, with a minimum of 4 spaces	1. Adequate provisions must be made for the safe storage, use and disposal of all hazardous substances. 2. Body art facilities must annually provide a valid body art facility license to the City of Flushing. 3. Body art facilities shall meet the licensee duties per MCL 333.13107, as amended.
Radio and television stations	A building or structure that houses professionals and equipment related to radio or television.	1 space per employee on the largest working shift	Must comply with maximum height requirements in each zoning district.
Registered medical marijuana caregivers	"Primary caregiver" or "caregiver" means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana.	None	See Additional Use Regulations Sec. 153.314(e). See additional use regulations of city ordinance Sec. 135.11
Restaurants and taverns	An establishment serving food and beverages for consumption.	1 space per 4 seats plus 1 space per employee on the largest working shift	1. Restaurant may have a drive-through as an accessory use. However, restaurant must comply with all applicable drive-through ordinance standards in that case. 2. Adequate provisions must be made for the safe storage, use and disposal of all hazardous substances (cooking oils).
Roadside Stands	An accessory use to an on-site agricultural operation of a year-round or seasonal location where transactions and marketing activities between the property owner of the subject property and customers take place.	2 spaces	1. The farmer's market shall be located on city-owned property. 2. The farmer's market shall have the appropriate permit to operate as required by the city.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Self-service laundry establishments	A facility where patrons wash, dry, or dry clean clothing or other fabrics in machines operated by the patron.	1 space per 4 persons	Adequate provisions must be made for the safe storage, use and disposal of all hazardous substances.
Sexually-oriented establishments (subject to the provisions of the city Adult Entertainment Ordinance)	Any adult bookstore, adult hotel or motel, adult motion picture arcade, adult motion picture theater, cabaret, sexual encounter center, or any other business or establishment that offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, but not including those uses or activities the regulation of which is preempted by state law.	1 space per 300 square feet of gross floor area	Use must comply with the City's Adult Entertainment Ordinance.
Small engine repair and similar services	Repair and service of small motors, engines, and other similar mechanical repair. Excluding automobile repair and service. Examples include lawn mowers, snow blowers, power washers, and grass trimmers.	1 space per employee on the largest working shift plus 3 spaces	1. Adequate provisions must be made for the safe storage, use and disposal of all hazardous substances. 2. If outdoor storage is present on site, outdoor storage design standards must be followed.
Storage facilities, including but not limited to cold storage, dry storage (without outdoor storage)	Self-storage units designed and used for the purpose of renting or leasing individual storage space to tenants for the purpose of storing and removing personal property.	1 space per every 3 storage units on site	1. There shall be no storage of hazardous, toxic, or volatile substances. 2. Parking spaces may be located on drives between storage buildings, but adequate space must be provided between buildings for two vehicles to pass between them.
Studios for dancing, art, music, and other similar uses	Workspace for artists or artisans, including individuals practicing one of the fine arts or skilled in an applied art or craft.	1 space per 6 persons permitted within the maximum occupancy load	None.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Theaters, Indoor	An outdoor or indoor area, building, part of a building, structure, or defined area utilized primarily showing motion pictures, or for dramatic, dance, musical, or other live performances. Such establishments may include related services such as food and beverage sales and other concessions, including theaters, concert halls, auditoriums, and similar uses.	1 space per 3 seats, plus 1 space per employee on the largest working shift	None.
Veterinary clinics	An establishment where animal patients are admitted for examinations and treatment by a group of veterinarians, or similar professionals.	1 per 50 square feet of usable floor area in waiting rooms and 1 for each examination room or similar area	1. The facility shall be licensed by the county Department of Animal Control. 2. Veterinary clinics with outdoor runs shall be a minimum of 300 feet from a residential district. All dog runs must be enclosed and have a concrete surface. 3. The applicant must identify an acceptable method of disposing of the animal waste, and animal remains. 4. If the use includes a kennel, kennel standards must also be met.
Industrial Uses			
Contractor's Yard (Private Business storage yard)	A site providing open or enclosed storage of materials used in the construction trade building materials, sand, gravel, stone, lumber, or open storage of contractor's equipment and supplies, in some cases, including office space.	5 plus 1 for every employee on the largest working shift	1. Must comply with the design standards for "Outdoor Storage." 2. The subject parcel shall be screened from public right-of-way and any residentially used parcel or zoning district by a 6-foot-tall fence, wall, or landscaping buffer.

Hazardous materials storage	The storage of any solid, liquid, or gaseous matter including but not limited to gases, vapors, dusts, fumes, and mists containing properties that by chemical means are inherently harmful and likely to destroy life or impair health or capable of causing injury to the well-being of persons or damage to property.	1 per employee on the largest working shift	1. Sites shall be designed to prevent spills and discharges into the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands. 2. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to the public sewer system, an on-site closed holding tank (not a septic system), or regulated through a state groundwater discharge permit. 3. Documentation of inspection and license from applicable state and federal agencies shall be provided prior to approval. 4. Process and methods for secondary containment of any hazardous materials shall be provided to the city prior to approval. 5. Emergency plans shall be filed and approved by the fire and police departments. 6. No underground storage tank shall be within 30 feet of any property line or 50 feet of any residentially zoned property. 7. No above-ground storage of hazardous substances and related secondary containment facilities shall be located within 50 feet of any property line or 100 feet of any residentially zoned property. 8. Site plans shall consider the location and extent of any contaminated soils and/or groundwater on site and the
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City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
			need to protect public health, and the environment. 9. Must comply with all applicable local, state, and federal regulations for the storage, transfer, and disposal of all hazardous materials.
Kennels, commercial	<i>Kennel, commercial</i>, means the housing or keeping of eight or more dogs and cats over four months of age, for any purposes or the keeping of any number of dogs for training or boarding. Veterinary clinics may keep animals in operating a kennel as an additional use, but the kennel operation must meet all standards listed here.	1 space per employee 1 space per 5 animals to be cared for simultaneously	Commercial kennels shall be subject to the following conditions: 1. The facility shall be licensed by the county Department of Animal Control. 2. Kennels housing dogs and dog runs shall be a minimum of 300 feet from a residential district. 3. All dog runs must be enclosed with fencing. 4. The applicant must identify an acceptable method of disposing of animal waste. 5. Dogs shall only be permitted outside between the hours of 8:00 a.m. and 9:00 p.m. 6. The subject parcel shall be screened from public right-of-way and any residentially used parcel or zoning district by a 6-foot-tall fence, wall, or landscaping buffer.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Kennels, private	<i>Kennel, private</i> , means the housing or keeping of more than three but fewer than eight dogs and cats over four months of age for noncommercial purposes on a lot or in a structure.	1 space per employee	Private kennels shall be subject to the following conditions: 1. All dogs within the facility shall be licensed by the county Department of Animal Control and the facility shall comply with operational standards of the county. 2. Kennels (including dog runs) housing dogs shall be a minimum of 50 feet from side or rear lot lines. 3. All dog runs must be enclosed with fencing. 4. The applicant must identify an acceptable method of disposing of the animal waste. 5. Dogs shall only be permitted outside between the hours of 8:00 a.m. and 9:00 p.m.
Laboratories	<i>Laboratory</i> means a facility for scientific laboratory research and development in technological-intensive fields. Examples include but are not limited to, biotechnology, pharmaceuticals, genetics, plastics, polymers, resins, coatings, fibers, films, heat transfer, and radiation research facilities.	5 plus 1 per employee in the largest working shift, or 1 for every 550 square feet of usable floor space, or whichever is determined to be the greater	1. Adequate provisions must be made for the safe storage, use and disposal of all hazardous substances. 2. Must demonstrate compliance with all applicable state, federal, and county regulations.
Pet grooming	An establishment that includes day care, grooming, or other services of dogs, cats and similar small animals, that does not include overnight boarding.	5 spaces plus 1 space per employee on the largest working shift	Adequate provisions must be made for the safe storage, use and disposal of all hazardous substances and animal waste.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Warehousing, wholesaling, processing, and manufacturing facilities and establishments	A use engaged in storage, wholesale, and distribution of manufactured products supplies, and equipment.	5 spaces plus 1 per employee on the largest working shift	1. The use is conducted wholly within a completely enclosed building, or within a designated area enclosed on all sides with a 6-foot fence or solid wall. 2. Adequate provisions must be made for the safe storage, use and disposal of all hazardous substances.
Institutional Uses			
Ambulance stations	A facility for the dispatch, storage, and maintenance of emergency medical vehicles.	3 plus 1 per employee on the working shift	The parking of ambulances or other emergency vehicles on site shall be screened from public right-of-way and any residentially used parcel or zoning district by a 6-foot-tall fence, wall, or landscaping buffer.
Cemeteries	Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes including, religious operations or structures, when operated in conjunction with and within the parcel boundaries of such cemetery.	1 per employee the largest working shift. Cemetery visitors may be accommodated along the interior cemetery drive.	The subject parcel shall be screened from public right-of-way and any residentially used parcel or zoning district by a 6-foot-tall fence, wall, or landscaping buffer.
Clubs, lodges, and fraternal organizations	A private membership organization that holds regular meetings and that may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or engage professional entertainment for the enjoyment of dues paying members and their guests. There are no sleeping facilities. This definition shall not include fraternities or sororities.	1 per 3 persons allowed within the maximum occupancy load	None.
Fire stations	A building used for storage of fire equipment and by firefighters. May contain office space, and temporary lodging for fire department employees.	3 spaces plus 1 per employee on the largest working shift	Where this use abuts a residentially used parcel or zoned district, screening shall be present in the form of a 6-foot-tall fence, wall, or landscaping buffer.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Municipal buildings and public utility offices	Buildings or other related facilities owned and operated by a public entity such as city, state, county, or federal government.	1 per 300 gross square feet of floor area, plus 1 space for each service window/counter	The site shall be so located as to have at least one property abutting a major thoroughfare or collector street as designated on the major thoroughfare plan. All ingress to and egress from the site shall be directly onto the major thoroughfare, collector street, or a marginal access drive thereof.
Museums	A room or building for exhibiting, or an institution in charge of, a collection of books, or artistic, historical, or scientific objects.	1 space per 5 persons allowed within maximum occupancy load	None.
Outdoor Theater	Outdoor area or structure specifically designed and used as a place of assembly.	1 space per 3 seats, plus 1 per employee on the largest working shift	1. Vehicular access shall be directly to a major or secondary thoroughfare. 2. All vehicles waiting to enter the facility shall be provided off-street parking and waiting space and vehicles shall not be permitted to wait within a public dedicated right-of-way. 3. All lighting used to illuminate the area shall be installed so as to be directed to and be confined to the premises. 4. Restrooms shall be provided on site. 5. All event parking must be contained on the subject parcel or through an alternative plan, approved by the Planning Commission.
Parking garage or lot	<i>Parking garage or lot</i> means any building or premises used for temporary parking of motor vehicles for remuneration.	None	The parking area shall be screened from public right-of-way and any residentially used parcel or zoning district by a 6-foot-tall fence, wall, or landscaping buffer.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Public, parochial, charter and other private elementary, intermediate, or high schools	Elementary, middle, and high schools that do not fall under the jurisdiction of the Michigan Superintendent of Public Instruction.	1 per employee on the largest working shift plus 1 per 10 students	The site shall be so located as to have at least one lot line abutting a major thoroughfare or collector street. All ingress to and egress from the site shall be directly onto the major thoroughfare, collector street, or a marginal access drive thereof.
Public owned land	Outdoor space owned by the city, county, state, or federal government, intended for public use. May include and operated libraries, parks, parkways, and recreational facilities and private golf, and other similarly related public owned uses.	Applicant to provide an estimate to the Planning Commission during Site Plan Review based on expected usage.	The City publicly owned land and buildings shall be exempt from use regulations of this chapter.
Religious Institutions	A place of worship or religious assembly with related facilities such as the following in any combination: rectory or convent, private school, meeting hall, offices for administration of the institution, licensed child or adult daycare, playground, cemetery, or other associated accessory uses.	1 space per 4 permitted occupants for assembly areas For offices and other uses, see appropriate uses in this section.	1. The site shall be so located as to have at least one property abutting a major thoroughfare or collector street as designated on the major thoroughfare plan. All ingress to and egress from the site shall be directly onto the major thoroughfare, collector street, or a marginal access drive thereof. 2. All parking must be contained on the subject parcel or through an alternative parking plan, approved by the Planning Commission. 3. Where this use abuts a residentially used parcel or zoned district, screening shall be present in the form of a 6-foot-tall fence, wall, or landscaping buffer.

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Stadiums and arenas including baseball, football, or other large facility with public seating	A structure with tiers of seats rising around a field or court, intended to be used primarily for the viewing of athletic events. Sports arena may also be used for entertainment and other public gathering purposes, such as conventions, circuses, concerts, or the like.	1 per each 3 seats or 6 feet of benches	1. All parking must be contained on the subject parcel, or an off-site parking area approved by the Planning Commission. 2. Vehicular access shall be directly to a major or secondary thoroughfare. 3. Permanent bathrooms must be present on site. 4. Use must be screened on all sides with a 6-foot-tall fence, wall, or landscaping buffer.
Other Uses			
Electric Vehicle Charging Stations	Equipment for the transfer of electric energy by conductive or inductive means to a battery or other storage device located onboard an electric vehicle. Charging stations shall be either for public use (accessible to all vehicle users during posted hours), or for restricted use (for certain specified users such as residents, fleet vehicles, or employees).	None	See Sec. 153.505.
Essential services, including but not limited to utility buildings and stations	Services provided by public and private utilities, necessary for the exercise of the principal use or service of structures and uses permitted in this ordinance. These services include but are not limited to underground, surface, or overhead gas, electrical, water, sanitary sewerage, stormwater drainage, and communication systems and accessories thereto, such as but not limited to poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants. Not including structures used or intended to be used for human habitation.	If structure on site has employees using the structure regularly, 1 space per 500 gross square feet of floor area	Use shall be screened from adjacent residential uses through a combination of fencing and landscaping.
Solar energy collectors	A panel or panels and/or other devices or equipment, or any combination thereof, that collect, store, distribute and/or transform solar, radiant energy into electrical, thermal or chemical energy for the purpose of generating electric power or other form of generated energy that is attached to the roof or wall of a building, or which serves as the roof or wall in whole or in part of the building.	None	The energy generated by building-mounted solar energy collectors must primarily serve the parcel on which they are located and not be primarily intended for sale or use off-site. See design requirements Sec. 153.314(f).

City of Flushing - Table of Use Requirements			
USE	DEFINITION	PARKING	DESIGN STANDARD
Temporary uses, buildings, and structures	A structure or use permitted by the Zoning Administrator and Building Official to exist during periods of construction of the main use or for seasonal or special events.	Equivalent parking requirement of relevant use	Temporary Building See Sec. 153.113 Temporary Use See Sec. 153.118

(a) *Accessory buildings and structures.*

Accessory buildings or structures shall be subject to the following regulations:

- (1) Where the accessory building or structure is structurally attached to a main building, it shall be subject to, and shall conform to, all regulations of this chapter applicable to main buildings.
- (2) Accessory buildings or structures shall not be erected in any front yard.
- (3) In residential zoning districts, accessory buildings and structures may not occupy more than 10 percent of the rear yard or 600 square feet, whichever is greater.
- (4) In commercial and industrial zoning districts, accessory buildings may be located in a rear or side yard.
- (5) No detached accessory building or structure shall be located closer than 10 feet to any main building without an approved fire wall. Nor shall it be located closer than 6 feet to any side lot line and 3 feet to any rear lot line. In those instances where the rear lot line is coterminous with any alley right-of-way, the accessory building or structure shall be no closer than 1 foot to the rear lot line. In no instance shall an accessory structure be located within a dedicated easement or right-of-way.
- (6) No detached accessory building or structure in an R-1, R-2, R-3A, R-3B, R-4, B-1, or OS-1 district shall exceed one story or 15 feet in height. Accessory buildings or structures in all other districts may be constructed to equal the permitted maximum height of structures in these districts.
- (7) Decks with a height of less than 30 inches from the surface of the ground, and swimming pools, shall be exempt from the area limitations, as imposed through this section and through the schedule of regulations.

(b) *Drive-throughs.*

- (1) Any drive-through facility shall include an off-street waiting space with a minimum width of 10 feet and a minimum length of 20 feet and shall not include the use of any public space, street, alley, sidewalk, required parking space, access aisle, or other required site element.

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- (2) On the same premises with every building structure or part thereof, erected and occupied for the purpose of serving customers in their automobile by means of a service window or similar arrangements where the automobile engine is not turned off, there shall be provided off-street stacking spaces as follows:

USE	MINIMUM STACKING REQUIREMENTS (PER LANE)
Restaurant	The distance between the order board and the pick-up window shall store four (4) vehicles, and storage shall be provided for four (4) vehicles in advance of the menu board (not including the vehicles at the pick-up window and menu board)
Financial Institution	Six (6) vehicles per lane inclusive of the vehicle at the window
Car Wash	For automatic car washes: four (4) times the maximum capacity of the car wash in advance of the tunnel and three (3) vehicles beyond the tunnel for drying areas. For manual car washes: two (2) times the maximum capacity of each wash bay.
Child Care Centers	One (1) vehicle per 15 children inclusive of the vehicle at the drop-off point. No parking area or maneuvering lanes shall be permitted between the drop-off point and the principal entrance to the building.
Personal Service Business	Four (4) vehicles per lane inclusive of the vehicle at the window
Vehicle Service Business	Four (4) vehicles per lane inclusive of vehicle being serviced
Pharmacy	Three (3) vehicles per lane inclusive of the vehicle at the window
Convenience Store	Three (3) vehicles per lane inclusive of the vehicle at the window
Other Uses	For uses not listed above, the Planning Commission shall make a determination of minimum required vehicle stacking at the time of site plan review, based upon analysis presented by the applicant, and reviewed by the Zoning Administrator.

- (3) Drive-through lanes shall not utilize any space which is necessary for adequate access to parking spaces from internal maneuvering lanes.
- (4) Drive-through lanes shall be striped, marked, or otherwise distinctively delineated, and shall require a by-pass lane with minimum width of 14 feet.
- (5) Landscaping and screening fence or wall shall separate all drive-through lanes and loading areas from adjacent residential districts or uses. ARTICLE 8 LANDSCAPE STANDARDS..
- (6) Drive-through lanes shall have a minimum centerline radius of 25 feet.
- (7) No stacking spaces shall be closer than 45 feet to any adjacent residential zoning lot, except when such lot is occupied by use other than a residential use.

(8) Lights used to illuminate drive-through areas shall be arranged so as to reflect away from adjacent properties.

(9) No drive-throughs are permitted in the central business district area of the City of Flushing, which is defined as properties fronting E. Main Street.

(c) *Commercial solar energy collectors.*

(1) All solar energy collectors shall be in compliance with the International Fire Code and be inspected by the fire department.

(2) The installation of all solar energy collectors shall be in compliance with Chapter 54, Stormwater Management.

(3) Solar energy collectors shall be in compliance with, permitted under the Michigan Building and Electrical Code and be inspected by the Building Official.

(4) All solar energy collectors shall have tempered non-reflective surfaces.

(5) All solar energy collectors shall be fitted with an automatic shut off or breaker switch to isolate the panels in case of fire as approved by the fire department and permitted under the electrical code.

(6) Commercial solar energy collectors shall be in compliance with ARTICLE 8 LANDSCAPE STANDARDS. A fence shall be required meeting Sec. 153.804. Such fence shall not have barb wire.

(7) Building mounted solar energy collectors shall be permanently attached to the principal structure in the rear yard.

(8) Principal structures with solar energy collectors shall be in compliance with ARTICLE 4 SCHEDULE OF REGULATIONS.

a. Building mounted solar energy collectors shall not project higher than the building roof height.

b. Building solar energy collectors shall not be located within 3 feet of any peak, eave or valley to maintain adequate accessibility.

c. Commercial solar energy collectors shall not exceed 9 feet in height measured from the ground at the base of such equipment.

(9) Commercial solar energy collectors shall be required to plant and maintain native ground covers on site during the operation until the site is decommissioned, excluding 10-foot-wide drives to access such collectors.

(10) Commercial solar energy collectors shall submit a financial guarantee in the form of a letter of credit or bond in favor of the municipality equal to 125 percent of the costs to return the site to green space. The financial guarantee shall remain in effect until the operation is decommissioned, solar energy collectors are removed, and vegetation is sufficiently established.

a. A site restoration plan shall be required and include provisions for removal of all structures, foundations, electrical equipment and internal or perimeter access roads and restoration of soil and vegetation.

b. Decommissioning of such systems shall occur in the event it is not in use for 12 consecutive months.

(11) Shall provide verification from the electrical utility that infrastructure exists to transport the electricity generated into the larger grid system.

(12) Power and communication lines to electric substations or interconnections shall be buried underground. The Planning Commission reserves the right to grant an exception to this requirement due to shallow bedrock, watercourses or other elements of the natural landscape and/or required by the utility company.

(13) Shall provide manufacturer's specifications and recommended installation and removal methods for all major equipment making up the solar energy collector system.

(d) *Ponds.*

(1) *Permit procedures.* An application for a pond construction or a pond or lake alteration permit shall be subject to site plan approval. For the purposes of pond construction or pond or lake alteration, the following information shall be required on the site plan:

- a. Name, address and phone number of applicant.
- b. Location of the lot on which the pond proposed to be constructed or the pond or lake proposed to be altered is situated.
- c. Legal description and tax parcel number of the lot on which the pond proposed to be constructed or the pond or lake proposed to be altered is situated.
- d. Description of the applicant's ownership interest in the lot on which the pond proposed to be constructed or the pond or lake proposed to be altered is situated.
- e. The existing and proposed size of the body of water in acres, including the approximate length, width and depth.
- f. The current use, if any, and the intended use of the pond or lake.
- g. The application shall be accompanied by a general plan of the property on which the proposed pond will be constructed or on which the pond or lake to be altered is located, including its specific location, the location of safety stations required by this section, its intended use, its general size and depth, the method to be used to assure its cleanliness and compliance with all applicable federal, state and local regulations, whether the pond or lake is or will be spring fed, stream fed, surface runoff fed or well fed, and any other information the Planning Commission may reasonably require.
- h. The general plan will be drawn to a scale of not less than 1 inch equals 50 feet. Cross sections indicating the depth, slopes, lengths and widths of the pond or lake will be illustrated at a scale of not less than 1 inch equals 50 feet.
- i. The application shall be accompanied by a neighborhood plan which shall be drawn to a scale of not less than 1 inch equals 200 feet and which will indicate all parcels of property within 300 feet of the property lines of the property on which the pond or lake is located or proposed to be located.

The neighborhood plan shall indicate all structures on the adjacent properties, all natural and manmade drainage systems and the general land or elevation contours at not less than 5-foot intervals for the entire land area within 300 feet of the property lines of the property on which the pond or lake is located or proposed to be located.

(2) *Additional requirements.*

- a. In addition to the general plan and neighborhood plan, the applicant will supply the city with a written approval for the proposed construction or alteration from the county drain commission, the county road commission, and any public utility company if any of said entities have any installations, easements, rights-of-way, or other interest in the property on which the proposed pond is to be constructed or on which an existing pond or lake is proposed to be altered. If the pond or lake is stream fed, a written approval for the proposed construction or alteration will be required from the State of Michigan.
- b. If there is a watershed on the site on which the pond or lake is located or on which the proposed pond is to be located, the city may require the application to be accompanied by a report by a qualified soils engineer or geologist regarding the effect the proposed pond construction or the proposed pond or lake alteration will have upon the watershed of the area, with particular attention being devoted to the water table, and, if water bodies are to be created, the anticipated permanence of such. The report shall include a groundwater and surface water quality analysis. The analysis shall be completed in accordance with professionally accepted engineering standards. The report shall provide base line water quality data to be used in determining compliance with the requirements of this chapter.
- c. If natural resource deposits are to be extracted, a detailed plan for the extraction of same is required. The plan shall provide for the protection of water courses, water bodies and wetlands from hazardous materials, contamination and erosion directly or indirectly caused by the extraction and restoration activities. The plan shall include a long range timetable for various stages of the operations and a phased restoration plan indicating how the area will be reused in a manner compatible with this chapter and master plan.
- d. The application shall also be accompanied by a detailed explanation as to routing of commercial vehicles to be utilized in the construction, alteration or extraction activities, their size, weight and frequency of trips. If different routes will be used at different stages of the operation, a timetable for such routings shall be included.

- (3) *Size and location requirements.* No permit will be issued for construction of a pond on less than 2 acres of land. No pond shall be constructed and no pond or lake shall be altered on any parcel of land where the resultant land to water ratio is less than 4:1. By way of example, a 1-acre pond would require a 4-acre parcel and a 1½-acre pond would require a 6-acre parcel. All edges of the excavation for any pond constructed or for any pond or lake altered as permitted and provided for in this section must be located a minimum of 50 feet from all property lines, easements, streets, roads, right-of-ways, septic fields, sewer lines, water wells and lines and habitable structures.

(4) *Surety requirements.*

- a. So as to assure timely completion of the proposed construction, alteration, extraction and/or restoration activities in compliance with the terms and conditions of this section, the applicant shall deposit with the City Clerk cash, a certified check, an irrevocable bank letter of credit or a surety bond acceptable to the city before a permit can be issued hereunder. This deposit will be held in escrow by the city and will be returned to the applicant upon the timely and successful completion of the proposed construction, alteration, extraction and/or restoration activities as certified by the city.
- b. Such deposit or surety bond shall be conditioned on the project being completed in compliance with the requirements of this subsection and within 120 days. The amounts required for such deposit or surety bond shall be 50 percent of the anticipated cost of excavation and completion of the pond.
- c. If there is a deviation from an approved site plan, the city shall notify the permit holder of such deviation. Failure to correct said deviation within 30 days shall automatically void any permits issued and prevent the issuance of new permits until such time as the deviation has been corrected in keeping with the requirements set forth in this subsection. An applicant may appeal a decision of the city administration to the City Council.
- d. Where the applicant has failed, neglected or refused to timely and successfully complete the proposed construction or alteration, extraction and/or restoration activities in compliance with the terms and conditions of this section, the cash, certified check, irrevocable letter of credit or surety bond shall be forfeited to the city which shall use such funds to complete such construction, alteration, extraction and/or restoration, or take such other steps as may be necessary to abate any nuisance created and to protect public health, safety and welfare of the residents of the city.

(5) *Erosion and restoration.* The drainage area above the pond or lake must be protected against erosion and shall be maintained in such a manner as to not cause unique surface runoff or flooding of adjacent land parcels. Excavation and soil disturbances exceeding one acre in area and/or within 500 feet of a stream, lake or other natural body of water shall comply with the requirements of part 91 of Public Act No. 451 of 1994 (MCL 324.9101 et seq.). During construction of a pond or alteration of a pond or lake, perimeters and adjacent excavated areas shall be reclaimed as the work progresses. Banks shall be restored with a minimum of 4 inches of topsoil and seeded or sodded to prevent erosion.

(6) *Embankment slopes.* The slope of embankments from the existing grade to the water line shall not exceed a slope of 1 foot vertical for 3 feet horizontal (1:3 slope). The slope of the bottom of the pond or lake shall not exceed 1 foot vertical for 3 feet horizontal (1:3 slope) for the first 15 feet inward from the water's edge. Thereafter, the slope shall not exceed 45 degrees (or 1 in 1 slope).

(7) *Safety station.* One safety station will be provided for every pond that has a depth of water exceeding 3 feet. For an existing lake, one safety station shall be provided for every 2 acres of lake area. A safety station consists of equipment that is available at all times for the rescue of a drowning victim. The minimum requirements for a safety station are:

- a. A post 2 inches by 4 inches or larger, 6 feet long and set 2 feet in the ground.

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- b. A new inner tube, ring buoy or other approved personal flotation device (PFD).
 - c. A 50-foot length of rope securely tied to the inner tube, ring buoy or PFD.
 - d. A pole that is at least 12 feet long.

(8) *Issuance of permit.*

- a. When it is determined that all the requirements of this section are met, the Planning Commission shall approve the site plan and issue a permit for the proposed construction of a pond or alteration of a pond or lake (and any extraction and restoration activities in connection therewith). A permit is valid for 120 days. If, due to conditions beyond the control of the applicant, additional time is required to complete the construction or alteration, the applicant may apply for an extension with the Planning Commission which may, in its sole discretion, grant such extension.
- b. Should the Planning Commission refuse to issue a permit or an extension of time for the completion of construction or alteration, it shall provide its reasons for such denial in writing to the applicant. The applicant may appeal such denial to the Zoning Board of Appeals.

(9) *Liability.* As a condition precedent to the issuance of a permit, the applicant shall agree to indemnify and hold harmless the city, its officials, agents and employees from all liability and damages, including court costs and attorney's fees that it or they may incur as a result of such pond construction or such pond or lake alteration.

(10) *Utilities.* The applicant shall have the duty and obligation to stop work and promptly notify the city if at any time during such pond construction or such pond or lake alteration any underground electrical line or conduit, telephone line, water line, drain tile or drain line, or any unidentified line, tile or conduit is uncovered or damaged in any manner. The work stoppage shall continue until the city inspects the site and determines whether construction can continue.

(11) The Planning Commission may require the installation of a fence no less than 4 feet in height to protect the health, safety and welfare of the property owners and/or tenants, neighboring uses and city residents.

(e) *Registered medical marijuana caregivers.*

Registered medical marijuana caregivers shall be subject to the following conditions:

- (1) They shall operate only in a B-2 Zoning District by special use permit. Each shall submit to a criminal background check, free of felony convictions and criminal charges involving drugs or narcotics.
- (2) No more than one registered primary caregiver may provide medical marijuana care at any premises or parcel of property. (A premises or parcel means: one commercial business premises having a separate postal address and taxed as a separate parcel for real estate tax purposes.)
- (3) Provide medical marijuana care to no more than five qualified patients and only in compliance with MMMA.

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- (4) Possess no more than 2.5 ounces of useable marijuana for each qualified patient for whom he provides care, nor have in excess of 12 medical marijuana plants for each qualified patient and only kept in an enclosed locked facility.
 - (5) No registered primary caregiver shall grow marijuana for more than one qualifying patient on any premises within the city until such time as said premises have been fully inspected by the chief of the fire department or their designee and the Building Inspector. Prior to issuance of a special use permit the fire chief and the Building Inspector shall both certify that they have inspected the premises and find that the premises is equipped with a sufficient number of enclosed and locked facilities for compliance with the MMMA for the number of qualified patients asserted by the registered primary caregiver and that the premises is reasonably equipped with electrical, plumbing and safety equipment so as to allow the safe and legal production of medical marijuana in compliance with all applicable building codes. In the event that a registered primary caregiver wishes to increase the number of qualified patients, not to exceed five qualified patients, then he shall apply for an amendment of the special use permit. The fire chief and the Building Inspector shall reinspect the premises to assure that there is compliance with building and safety requirements. The chief of police shall inspect for crime prevention through environmental design.
 - (6) Said premises used by the medical care provider may be no closer than 500 feet from schools, daycare centers, places of worship, parks, or other medical marijuana caregivers.
 - (7) All medical marijuana caregivers and all assistance given to a patient shall occur within the confines of a building authorized by a special use permit under this section and in locations not visible to the public and adjoining users.
 - (8) There shall be no signage identifying a medical marijuana caregiver's presence or a place at which medical marijuana is distributed.
 - (9) A medical marijuana caregiver who may be operating an existing facility before the date of the ordinance from which this Article is derived must make application for and receive approval to continue such operations.
 - (10) A property owner or medical marijuana caregiver shall have no vested rights or non-confirming use rights that would serve as a basis for failing to comply with this chapter or any amendment thereto.
- (f) *Solar energy collectors.*
- (1) Solar energy collectors shall be in compliance with the International Fire Code and be inspected by the fire department.
 - (2) The installation of solar energy collectors shall be in compliance with chapter 54, stormwater management.
 - (3) Solar energy collectors shall be in compliance with, permitted under the Michigan Building and Electrical Code and be inspected by the Building Official.
 - (4) Solar energy collectors shall have tempered non-reflective surfaces.

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- (5) Solar energy collectors shall be fitted with an automatic shut off or breaker switch to isolate the panels in case of fire as approved by the fire department and permitted under the electrical code.
 - (6) Building mounted solar energy collectors shall be permanently attached to the principle structure.
 - (7) Principle structures with solar energy collectors shall be in compliance with ARTICLE 4 SCHEDULE OF REGULATIONS.
 - a. Building mounted solar energy collectors shall not project higher than the building roof height.
 - b. Building solar energy collectors shall not be located within 3 feet of any peak, eave or valley to maintain adequate accessibility.
 - (8) All solar energy collectors shall be removed, repaired, or replaced if nonfunctional.
 - (9) Solar energy collectors shall not be mounted on a building wall that is parallel to an adjacent public right-of-way.
 - (10) Ground-mounted solar energy collectors shall meet all standards for accessory buildings and structures, except that the height of ground-mounted solar energy collectors shall not exceed 8 feet in residential districts and shall not exceed 12 feet in commercial or industrial districts.

(g) *Single-family dwellings.*

- (1) The plan outline of the dwelling, including only heated living area, shall be large enough to contain within it a square of 20 feet on a side. This size requirement shall not make any houses existing at the date of amendment nonconforming so that they cannot be enlarged or improved.
- (2) In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.
- (3) Single-family dwellings shall be connected to a public sewer and water supply, if available, or if not available, to private facilities approved by the county health department. See Sec. 52.035.
- (4) A single-family dwelling shall be aesthetically compatible in design and appearance to homes in the neighborhood in which it is located. It shall be the responsibility of the Zoning Administrator to determine whether this standard is met. The Zoning Administrator may at their discretion, refer the matter to the Zoning Board of Appeals for the determination. The determination of compatibility shall be based upon the character, design and appearance of residential dwellings (excepting mobile home parks) within 300 feet of the subject dwelling where such area has existing dwellings on not less than 20 percent of the lots situated within said area. Where said area is not so developed, the determination of compatibility shall be based on the character, design, and appearance of the residential dwellings generally found throughout the city. The determination of compatibility shall also be based upon compliance with the following standards:
 - a. The dwelling shall have a combination of roof overhang and pitch comparable to the overhang and pitch of homes typically found in the neighborhood in which it is to be located.

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- b. The dwelling shall have a chimney that is constructed of a material and style similar to those of other dwellings typically found in the neighborhood in which it is to be located.
 - c. The dwelling shall be accessed by exterior above grade steps and/or porches which are permanently attached to the ground and to the structure, and which are comparable to steps and/or porches of homes typically found in the neighborhood in which it is to be located.
 - d. The dwelling (including roof) shall be covered with materials which are in composition, color, texture, malleability, direction of joints, and method of fastening to the structure comparable to those typically found in the neighborhood in which it is to be located.
 - e. The dwelling shall have windows located on the front and side walls, and exterior doors either on the front and rear walls or front and side walls as generally found in homes in the neighborhood in which it is to be located.
- (5) A dwelling may be approved as aesthetically compatible in design and appearance to homes in the neighborhood in which it is to be located, even if all the above conditions do not exist, provided it is determined that the dwelling and/or its site has other design features which make it aesthetically compatible to homes in the district. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as energy conscious devices such as solar energy, view, unique land contour or relief from the typical or standard designed home.

ARTICLE 4. SCHEDULE OF REGULATIONS

Sec. 153.401. Schedule of Regulations Table.

The following regulations regarding lot sizes, yards, setbacks, lot coverage, building size and densities shall apply within the zoning districts as indicated, including the regulations contained in the footnotes. No building shall be erected, nor shall an existing building be altered, enlarged or rebuilt, nor shall any open spaces surrounding any buildings be encroached upon or reduced in any manner, except in conformity with the regulations hereby established for the district in which such building is located. No portion of a lot used in complying with provisions of this chapter for yards, courts, lot area occupancy in connection with an existing or projected building or structure, shall again be used to qualify or justify any other building or structure existing or intended to exist at the same time.

		Minimum Lot Area		Maximum Height of Building		Minimum Yard Setback (Per Lot in Feet)						
							Sides					
Use Districts		Area in Square Feet	Width in Feet	In Stories	In Feet	Front	Least One	Total Two	Rear	Minimum Floor Area Per Unit (Sq. Ft.)	Maximum Percentage of Lot Coverage (Area of all)	Minimum Open Ratio
R-1	Single-Family Residential	(a) (b) 9,600	(b) 75	2½	30	(c) 30	10 (d)	20 (d)	35 (e)	1,000 (one-story) 1,200 (two-story)	30	
R-2	Two-Family Residential	(a) (b) 10,200	(b) 100	2½	30	(c) 25	10 (d)	20 (d)	25 (e)	900	35	
R-3A	Medium Density Residential	(f) (b) 22,500	(b) 150	2½	30	30	15 (g)	30 (g)	(g)35(e)	(q)	35	20
R-3B	High Density Residential	(b) (f) 10,000	(b) (f) 75	2½	30	30	15 (g)	30 (g)	(g)35(e)	(q)	35	25
R-4	Mobile Home District	Must comply with the Michigan Manufactured Housing Commission Standards.										
B-1	Local Business District		66		35	(h) (i) 25	(j)	(j)	(k) 20			
CBD	Central Business District		66		45	(p)			(k)			
B-2	General Business District		66		35	(h) (i) 40	(j)	(j)	(k) (j) 20			

		Minimum Lot Area		Maximum Height of Building		Minimum Yard Setback (Per Lot in Feet)						
B-3	Heavy Business District		66		35	(h) (i) 40	(j)	(j)	(k) (j) 20			
OS-1	Office Service District		66	(l)	(j) 30	(h) (j) 25	15 (j)	30 (j)	20 (k)			
I-1	Industrial District		66	(m)	(m)	(n)	20 (o)	40 (o)	50 (o)			

Sec. 153.402. Footnotes for Schedule of Regulations.

- (a) In those instances where public sewers are not provided, all lot areas per dwelling unit shall equal at least 20,000 square feet.
- (b) There shall be a front yard on each street side of a corner lot, except that the buildable width of such lot shall not be reduced to less than 25 feet. No accessory building shall project beyond the front yard line on either street.
- (c) In the event an attached garage is so provided, the minimum side yard contiguous to such garage may be 6 feet except where additional stories are provided over the garage, then the minimum side yard shall be 10 feet. The effect of this will be to reduce the total side yard a minimum of 4 feet in those cases providing for attached garages.
- (d) In the case of a corner lot, the rear yard may be opposite either street frontage, but there shall only be one rear yard.
- (e) The maximum number of dwelling units permitted in the multiple-family district shall be 8 dwelling units per acre in the R-3A district, and 12 dwelling units per acre in the R-3B district. In any R-3 district, the area used for computing density shall be the total site area exclusive of any dedicated public right-of-way of either interior or bounding roads.
- (f) In any R-3 district, front, side, or rear yards need not refer to spacing between buildings for a planned development for two or more buildings on the same parcel. In such cases, the minimum distance between any two buildings shall in no instance be less than 30 feet. In any R-3 Multiple-Family District, the Planning Commission shall establish the maximum number of units permitted in any single building or series of attached buildings in accordance with approval of the site plan as provided for in ARTICLE 6 of this chapter, provided, further, that no single building or series of attached buildings shall be permitted in excess of 36 dwellings units. In any R-3 district, areas devoted to off-street parking, drive or maneuvering lanes shall not cover more than 30 percent of the area of any required yard or any required minimum distance between buildings except that there shall be no parking in the required front yard.
- (g) The required front yard for new structures built on a block where the existing principal structures have less than the minimum front yard, requirements shall be no less than the average setback of houses on the block.

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- (h) Off-street parking may be permitted to occupy a required front yard after approval of the parking plan layout and points of ingress and egress, provided there shall be maintained a minimum setback in the form of a greenbelt planting strip of 15 feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line.
 - (i) No yards are required along the interior side lot lines of the district, except as otherwise specified in the building code, provided that is walls of structures facing such interior side lot lines contain windows or other openings, then side yards of not less than 10 feet shall be provided. On a corner lot which borders on a residential district there shall be provided a setback of 25 feet on the side of residential street. On an exterior side yard abutting a residential district there shall be provided a setback of 10 feet in width.
 - (j) Off-street loading space shall be provided in the rear yard in the ratio of a least one space per each establishment and shall be provided in addition to any required off-street parking area.
 - (k) Planning developments involving 10 acres or more under one ownership shall be subject to the approval of the Planning Commission, after public hearing, regarding modifications with respect to height regulation. In approving an increase in structure height, all yard measurements shall be at least equal in their depth to the height of the structure.
 - (l) In the I-1 Industrial District, there are no height restrictions except in so far as these industrial districts are related to residential districts. When an industrial district lies opposite a residential district or contiguous to a residential district, no building or structure shall exceed a height of three stories, or 50 feet within 20 feet of such residential districts.
 - (m) In those instances where the required off-street parking is provided for in the front yard, the minimum front setback shall be 100 feet, providing that at least 20 feet of lawn area is provided between the parking area and the proposed road right-of-way. The lawn area shall be maintained as open space unoccupied and unobstructed from the ground upward except for landscaping of plant material. In those instances where the front yard is planned or used as a landscape space, the minimum front setback shall be 50 feet. This yard shall remain open and shall not be used for off-street parking. It may, however, provide for an entrance drive to the office portion of structure. All yards abutting on a public street shall be considered as front yards for setbacks purposes.
 - (n) No building shall be located closer than 100 feet to the outer perimeter (property line) of such district when the property line is contiguous to or lies opposite from any residential district. Required side or rear yards may be used for off-street parking or loading and unloading provided that in such instances it shall be determined that sufficient access to the rear of the building is provided for firefighting or other emergency type equipment.
 - (o) Where structures have been built upon a majority of the parcels in the block face, any new structures shall be built to conform with these building setbacks.
 - (p) The minimum floor area for apartments is:

Bedrooms	Minimum Floor Area
One	500 square feet
Two	650 square feet
Three or more	650 square feet plus 150 square feet for each additional bedroom

Minimum floor area requirements for single-family dwelling units and duplexes shall be 900 square feet per dwelling unit.

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- (q) Building height must comply with those of the underlying zoning district, except as otherwise provided for in this Article. Building height and roof line shall be as provided for in Sec. 153.202 Building height.

ARTICLE 5. OFF-STREET PARKING AND LOADING

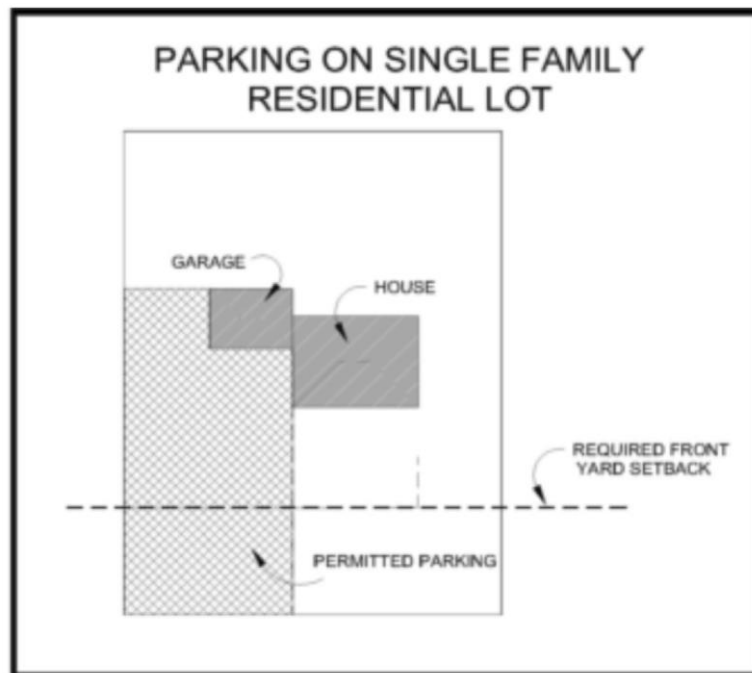
Sec. 153.501. Parking Requirements.

There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The number of off-street spaces, in conjunction with all land or building uses, shall be provided prior to the issuance of a certificate of occupancy as hereinafter prescribed.

(1) *Residential use.*

- a. *Residential off-street parking.* Residential off street parking spaces shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the lot they are intended to serve and be subject to other applicable provision of this chapter. The parking area may be located in front of the garage and or in the side yard of the lot as shown in the figure below. The construction of a circular drive-in front of the residence on parcels fronting on major streets may be permitted by approval of the Planning Commission.

Figure 5-1



(2) *Non-residential use.*

- a. Off-street parking for non-residential uses shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Current ownership status and contractual uses or other long-term shared arrangements shall be shown on all lots or parcels intended for use as parking by the applicant.

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- b. For uses in the Central Business District (CBD), off-street parking shall be accommodated in public parking spaces. The parking and unloading space requirements contained herein shall not apply to uses in the CBD, at the discretion of the Planning Commission, if the Commission determines that the parking needs of the use are met by any combination of on-street parking, joint use parking, parking on a nearby site and municipal off-street parking.
 - c. *Changes in parking requirements.* When there is a change in use, the parking requirements need to meet the standard for that use. The parking areas must be modified to satisfy the uses new minimum parking requirement. Through change in use, increase of employees, building square footage, or another standard related to a uses parking requirement.
 - d. *Parking area alterations.* When a parking area is to be altered, either by removing parking spaces, adding new parking spaces, or reconstruction, the property owner must receive a zoning permit. When a parking lot is to be resurfaced and no changes made, no zoning permit should be required.
 - e. Any area once designated as required off-street parking shall never be changed to any other use unless and until equal facilities are provided elsewhere.
 - f. Off-street parking existing at the effective date of the ordinance from which this chapter is derived in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or use.
 - g. Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses, computed separately.
 - h. The shared use of parking spaces between two adjacent uses may be permitted provided that the applicants can demonstrate a long-term shared arrangement, and that the hours of operation do not overlap.
 - i. *Collective parking requirements.* When a lot has more than one principal use, parking must equal the cumulative requirements for each use. When a lot has more than one principal use, the Planning Commission may decrease required parking by up to 50 percent, when it is demonstrated that parking needs are satisfied with less parking spaces.
 - j. *Maximum parking.* No use may exceed their required parking count by more than 20 percent.
 - k. *Parking waivers.* Allowing for the Planning Commission to decrease the number of required parking spaces by up to 25 percent when an applicant can demonstrate fewer parking spaces can satisfy their parking demand.
 - l. Off-street parking areas shall be used for parking only. The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles, or other uses is prohibited.
 - m. For those uses not specifically mentioned in this section, the requirements for off-street parking facilities shall be in accordance with a use which the Zoning Board of Appeals considers as being similar in type.
 - n. Any fractional parking space determined because of minimum requirements shall result in a full additional space.

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- o. For the purpose of computing the number of parking spaces required, the definition of gross floor area shall govern.
 - p. In addition to space requirements as spelled out in this Article, off-street parking spaces for the physically handicapped shall be provided in accordance with state law. Signage, pavement markings and accessibility features shall also be in accordance with state law.
 - q. *Front yard parking.* No part of any front yard shall be used for motor vehicle parking, except upon a driveway. In addition, on a corner lot no motor vehicle shall be parked in the side yard abutting a public street except upon a driveway.

Sec. 153.502. Space Requirements; Types of Use.

The minimum number of off-street parking spaces by type of use shall be determined in accordance with Sec. 153.314. Table of Use Requirements.

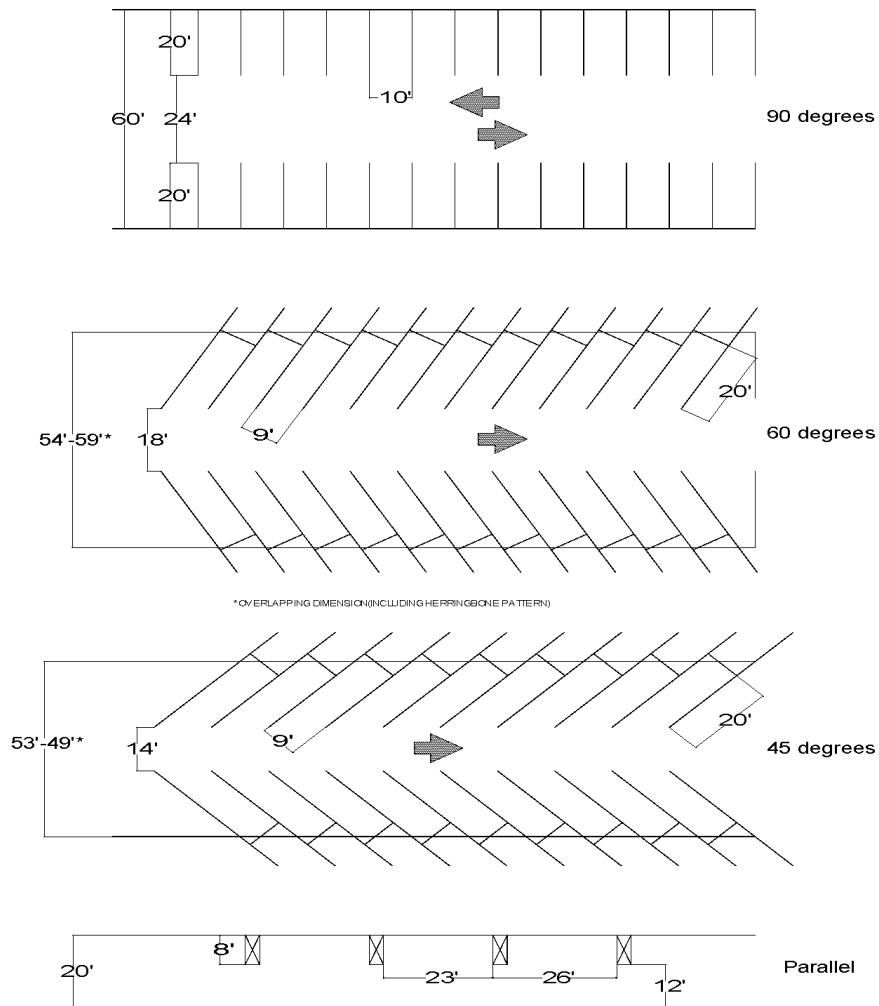
Sec. 153.503. Off-Street Parking Space Layout, Standards, Construction, and Maintenance.

Wherever the off-street parking requirements in this chapter 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 standards and regulations:

- (1) Residential driveways shall be hard surface.
- (2) All driveways, parking and loading areas shall be a hard surface in all multifamily, commercial, and industrial districts.
 - a. Industrial districts may allow gravel parking lots in rear yards, with a required dust control mitigation plan.
- (3) *Driveways.* All curb cut shall have a minimum of size of 20 feet and maximum 40 feet.
 - a. Maximum of two driveways per site. Planning Commission may wave minimum spacing between curb cuts.
- (4) All spaces shall be laid out in the minimum dimensions identified in Figure 5-2.
- (5) All spaces shall be provided adequate access by means of maneuvering lanes that meet the following requirements. Note that maneuvering lanes shall not include area used for gutter pans.

Figure 5-2

PARKING LAYOUTS



Parking Space Angle	Maneuvering Lane Width
0E—29E (parallel)	12 feet
30E—53E	14 feet
54E—74E	18 feet
75E—90E	24 feet

- (6) Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. All drives shall be hard surfaced concrete material.
- (7) *Lighting.* Proposed lighting shall be provided in keeping with the requirements of this chapter.
 - a. Single-family and two-family lighting is excluded from the following standards.

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- b. *Lighting requirements.* All multi-family and non-residential parking areas must be properly lit and have minimum and maximum lighting intensities to ensure adequate lighting, but also to not cause a nuisance to neighbor lots.
 - c. Maximum height of light poles:
 - 1. In multifamily and commercial districts light poles shall not exceed 15 feet in height.
 - 2. In industrial districts light poles shall not exceed 20 feet in height.
 - d. All light fixtures must point downward and be shielded on other sides.
 - e. Adequate lighting shall be provided throughout the hours when the parking area is in operation.
 - f. Lighting shall be designed and constructed in such a manner to ensure that direct or directly reflected light is confined to the development site through the use of full cut-off fixtures.
 - g. Unless otherwise approved by the Planning Commission, light sources shall use warm white or natural lamp colors.
 - h. Specifications for lights, poles, fixtures, light sources, and lenses shall be reviewed and approved by the Planning Commission.
 - i. Photometric plan shall be provided for all off street parking and lighting shall not exceed 1.0 foot-candle at property line.
 - j. Parking lot poles shall be located in parking lot islands or in the periphery parking lot area. Light poles shall be prohibited in parking spaces.

(8) *Recreational vehicle and trailer storage.*

- a. In all residential districts, open storage of all trailers and recreational vehicles (boat, personal watercraft, snowmobile, camper, motor home, detachable camper tops or any other similar vehicle) is allowed only in the side or rear yard with all the following requirements being met:
 - 1. The recreational vehicle and/or trailer are operable for its intended manufactured purpose.
 - 2. License and registration from the state for operation has been secured and valid.
 - 3. No more than two items listed above shall be parked or stored at any given time on a residential zoned lot.
 - 4. The owner of any trailer and/or recreational vehicle parked or stored on a residential zoned lot shall be the owner of the lot or the legal tenant.
 - 5. In the case of corner residential zoned lots, storage shall be limited to the rear yard and interior side yard.
 - 6. No recreational vehicle shall be occupied or used for living purposes while stored anywhere on the residential zoned lot. The connection of utilities to the stored recreational vehicle shall be allowed only for purposes of maintenance for the unit.
 - 7. An exception is provided to the regulations above for the purpose of loading or unloading in the driveway of a residential zoned lot. This task shall be completed within 24 hours and the trailer and/or recreational vehicle be returned to storage.

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- (9) Plans for the layout of the parking lot shall show a total dimension across two tiers of spaces and one aisle (maneuvering lane).
 - a. No parking lot shall be laid out which requires patrons, employees or visitors to back out onto a public road.
 - (10) Off-street parking areas shall meet the requirements of the LANDSCAPE STANDARDS article, if applicable. See Sec. 153.806.
 - (11) All parking areas shall have adequate, clearly defined and safe pedestrian routes.
 - (12) All parking lots shall meet Michigan Barrier Free Parking Space requirements.
 - (13) All parking areas (including loading and unloading areas) must provide for sufficient access for firefighting and access by other emergency vehicles.
 - (14) *Drainage*. All multifamily and non-residential parking areas must be properly drained, with all parking areas draining water away from the structures on site and adjacent properties.

Sec. 153.504. Off-Street Loading and Unloading.

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way. Such space shall be provided as follows:

- (1) All spaces in B-1, B-2, CBD, and OS-1 districts shall provide loading and unloading spaces as determined by gross floor area in Table 5-1.

Table 5-1

Gross Floor Area (Square Feet)	Loading and Unloading Space Required in Terms of Square Feet of Usable Floor Area
0 through 1,400	None
1,401 through 20,000	One space
20,001 through 100,000	One space plus one space for each 20,000 square feet in excess of 20,001 square feet
100,001 and over	Five spaces

- (2) All spaces in an I-1/LI district shall be laid out in the dimension of at least 10 feet by 50 feet, or by 500 square feet in area. Loading dock areas and approaches shall be surfaced with an approved bituminous or concrete material.
- (3) Loading and/or unloading is restricted to the period of 8:00 a.m. to 8:00 p.m. for all businesses abutting a residential district. A special use permit is required to obtain additional hours.
- (4) *Loading zone*. No loading spaces be present in the front yard. All loading zones shall only be permitted in the side and rear yards.

Sec. 153.505. Charging Stations of Electronic Vehicle

Electric vehicle charging stations and associated mechanical equipment shall be subject to the following regulations.

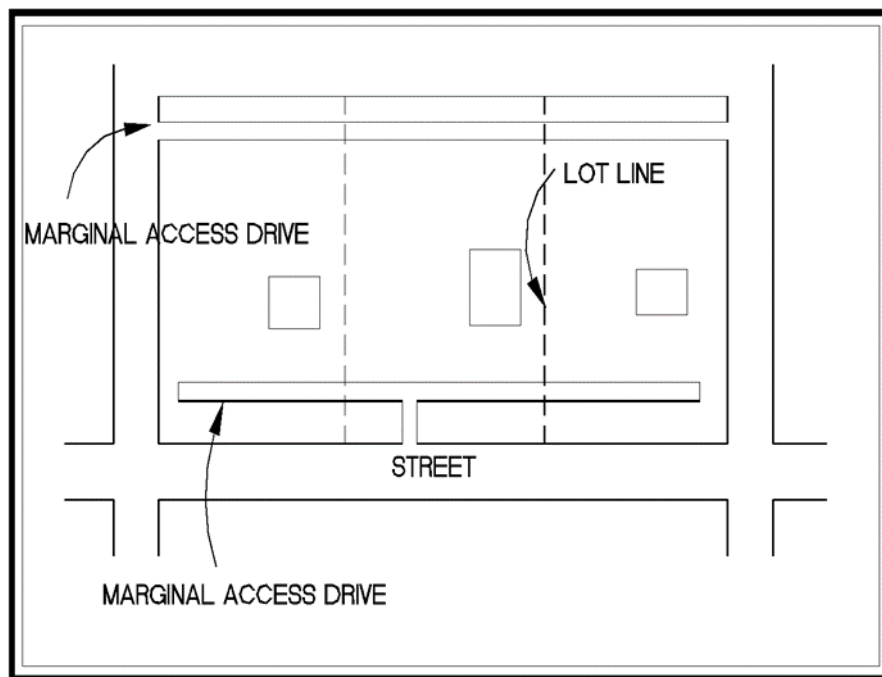
- (a) *Single-family residential.* If an electric vehicle charging station is located entirely within a building on a parcel within the R-1 or R-2 zoning districts no zoning approval is required. If the charging station is not located entirely within a building in the R-1 or R-2 zoning district, it is subject to accessory building, structure and use standards. See Sec. 153.314. Table of Use Requirements.
- (b) *Commercial, industrial and multi-family.* Electric vehicle charging stations are a permitted accessory use within off-street parking areas located in all commercial and industrial zoning districts, as well as the R-3A, R-3B, and R-4. Charging stations located in one of these zoning districts are subject to the following standards, not to standards for accessory structures.
 - (1) *Relationship to parking requirements.* A parking space equipped with an electric vehicle charging station and reserved for electric vehicle parking shall be counted as a regular parking space for the purposes of meeting the minimum required parking spaces for the use.
 - (2) *Electric vehicle charging station design standards.*
 - a. Parking spaces for electric vehicles shall meet the minimum width and design standards for regular parking spaces contained in Sec. 153.501. Parking Requirements.
 - b. Charging station outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the ground or pavement surface where mounted and shall contain a retraction device and/or a place to hang permanent cords and connectors a sufficient and safe distance above the ground or pavement surface. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designated and located as to not impede pedestrian travel or create trip hazards on sidewalks.
 - c. Adequate charging station equipment protection, such as concrete filled steel bollards, shall be used. Non-mountable curbing may be used in lieu of bollards if the charging station is set back a minimum of 24 inches from the face of the curb.
 - d. Electric infrastructure serving the charging station shall be located underground.
 - e. If located in a front or side yard, mechanical equipment and transformers serving the charging station shall be screened by landscaping, a solid wall, or fencing from the view of the street or surrounding properties.
 - f. Canopies are permitted but not required. Canopies shall cover only the electric vehicle charging space or spaces. Canopies must provide a clearance height of not less than 14 feet. If canopies are included, the charging stations must be located in a side or rear yard.
- (3) *Signage and notification.* A single sign shall be place on each electric vehicle charging station to identify voltage and amperage levels, time of use, fees, safety information and other pertinent information. Signs for electric vehicle charging stations shall not exceed 4 square feet in area.

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- (4) *Installation and maintenance.* All electric vehicle charging stations shall receive all necessary mechanical, electrical, and other permits from the building department.
- a. Electric vehicle charging stations shall be maintained in all respects, including the functioning of the equipment. A phone number and other contact information shall be provided on the equipment for reporting when it is not functioning or when other problems are encountered.
 - b. If an electric vehicle charging station is out of operation for a period exceeding 90 days, it shall be removed at the cost of the property owner.
- (5) *Special land use.* Installation of more than five (5) electric vehicle charging stations, or the presence of more than ten (10) electric vehicle charging parking spaces, requires a special land use permit. See ARTICLE 7. SPECIAL USE PERMITS.

Sec. 153.506. Marginal Access Drives.

- (a) In approving the site plan, marginal access drives may be required.
- (1) The Planning Commission may require marginal access drives for all uses facing onto major thoroughfares and direct the location of parking areas and marginal access drives in relation to existing conditions as will be most conducive to provide for the convenience and safety of the community.
 - (2) Where deemed necessary, the Planning Commission shall require an easement to all property provided access by the drive for vehicle access to adjacent parking lots and to minimize the need for driveways to each parcel of land and thereby increase the safety and convenience in the use of such areas by the community. Easements shall provide for liability and maintenance of the access drive.

Figure 5-3



ARTICLE 6. SITE PLAN REVIEW²

Sec. 153.601. Intent.

These site plan review procedures are instituted to provide an opportunity for the city Planning Commission to review the proposed use of a site to verify the plan's compliance with the requirements of the city's Zoning Ordinance. This includes review of a plan in relation to drainage, pedestrian and vehicular circulation, off-street parking, structural relationships, public utilities, landscaping, accessibility, outdoor lighting, sidewalks, signs and other site design elements which may have an adverse effect upon the public health, safety, and general welfare, as well as to provide for the best interests of the property owner and adjacent property owners.

Sec. 153.602. Applicability.

- (a) Site plan review procedures shall apply to all proposed new construction or additions except the following. If new construction qualifies for one of the three following exceptions, other permits required by this Chapter and other city ordinances are still required, including zoning permits Sec. 153.1203, Zoning Permit.
 - (1) One- and two-family dwellings and their accessory structures.
 - (2) Additions of 750 square feet in area or less to existing buildings which are in conformity with all other provisions of this chapter and are not on parcels adjacent to a residential zoning district.
 - (3) Any addition, expansion, or change that qualifies as a minor site plan amendment. See Sec. 153.609.
- (b) Site plan review shall be required for any accessory structure greater than 1,000 square feet in area.
- (c) Site plan review shall be required prior to the issuance of a special use permit.
- (d) Site plan review shall be required for any proposed condominiums.

Sec. 153.603. Site Plan Review Process.

- (a) For those uses which require site plan approval, a building permit shall not be issued until a site plan for the use has been approved by the Planning Commission and all conditions of the approval have been met.
 - (1) The applicant shall submit three (3) physical copies of the site plan plus one (1) electronic copy. Copies shall be submitted at least 28 days prior to the next regularly scheduled Planning Commission meeting to begin processing the application for official action by the Planning Commission. Copies submitted less than 28 days prior to the next regularly scheduled meeting must wait until the following regularly scheduled Planning Commission meeting for consideration.
 - (2) The City Clerk shall distribute the copies of the site plan and application to the Department of Public Works, city planner, building department, police department, fire department, and city engineer.

²State law reference(s)—Submission and approval of site plan, MCL 125.3501.

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- (3) The reports generated by the persons and departments reviewing the site plan shall be incorporated into the information packets for the next Planning Commission meeting and considered by the Planning Commission.
 - (4) The Planning Commission shall review and discuss the site plan.
 - (5) The Planning Commission shall either approve the site plan, approve the site plan with conditions, deny the site plan with reasons for denial, or postpone the site plan to review further information.
 - (6) The cost of professional consultant review services and any other fees shall be paid at the time of application, consistent with the city's fee schedule.

Sec. 153.604. Required Information.

- (a) A site plan shall be drawn on paper 24 inches by 36 inches and to a minimum scale to present the required information at a legible size. The site plan shall contain the following information:
 - (1) North arrow and appropriate scale.
 - (2) A location map at a larger scale, indicating the relationship of the site to the surrounding land use and showing the zoning and existing land use of the site and of all adjacent parcels.
 - (3) Statistical data including number of dwelling units, bedroom composition (for example, one-bedroom, two-bedroom, and three-bedroom), if any, and total acreage involved in the project. In the case of mobile home parks, the size and location of each mobile home site shall be shown. In other cases, the location, type, horsepower, fuel, dimension, and other data of all machinery to be used on the proposed site, if applicable.
 - (4) The location of principal and accessory buildings and structures on the lot and the relationship of each structure to another, including distances between buildings and setbacks. This shall include all temporary buildings and structures.
 - (5) Locations of all buildings within 100 feet of the site.
 - (6) Vehicular traffic and pedestrian circulation features within and near the site, including driveways or street intersections within 100 feet of the property. Radii of curbs and internal streets, street widths, sidewalk widths and cross sections of streets, drives and sidewalks.
 - (7) The location and dimensions of all off-street parking areas including maneuvering lanes, off-street loading spaces, and other service areas within the development.
 - (8) The location, dimensions, and proposed use of all on-site recreation areas, if any.
 - (9) The location of all proposed landscaping, fences, or walls. A landscape plan shall show the location, species, minimum size and minimum spacing of all required plantings, including all trees to remain on site.
 - (10) The height and dimensions of all structures.
 - (11) Front, rear, and side elevation views of any typical structure proposed for development.
 - (12) A floor plan showing existing and proposed uses, number of employees and the usable floor area dedicated to each type of use.
 - (13) Designation of fire lanes.

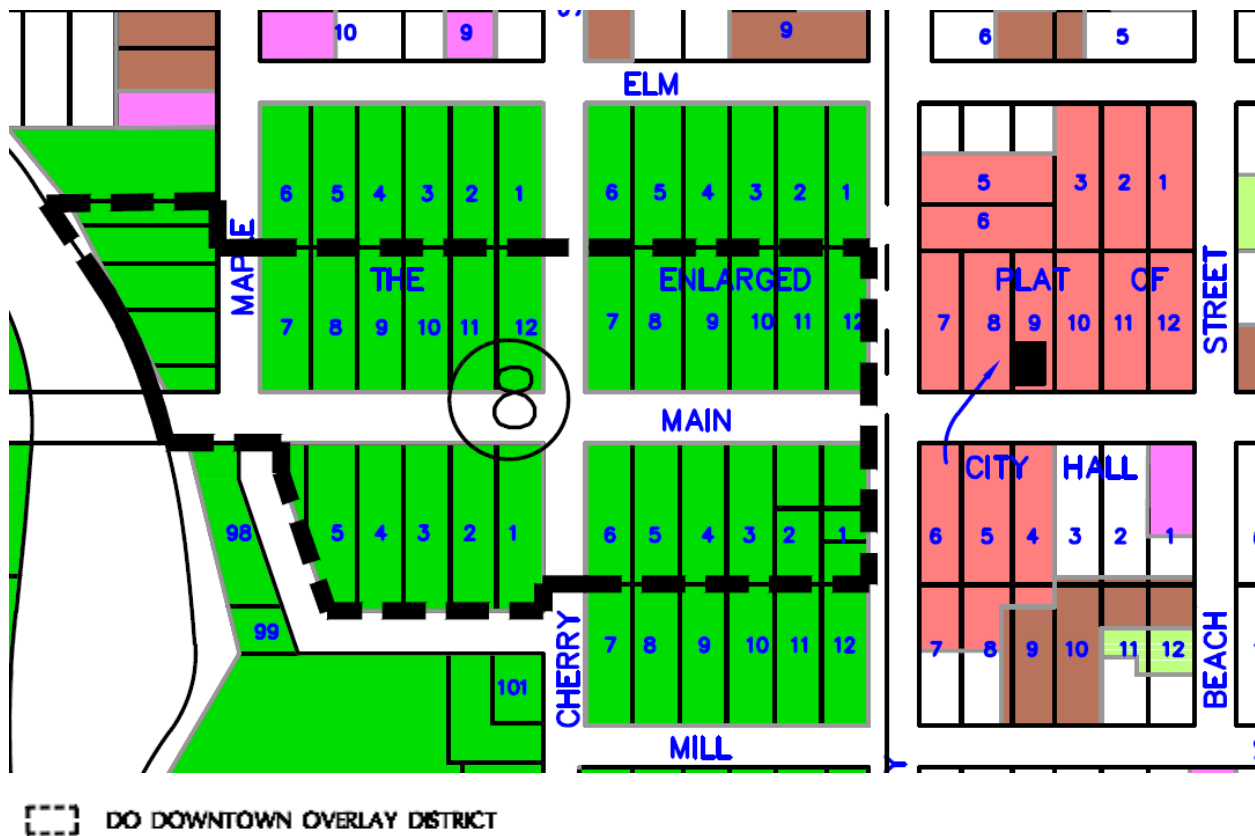
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- (14) Elevations of existing and proposed grades along with existing and proposed contours at 1-foot intervals, except 2-foot intervals for areas with grades steeper than 20 percent. In addition, sufficient grades and contours of adjoining parcels, or parts thereof, to show on and off site drainage affecting the parcel.
 - (15) The location and capacity of private or public water and sanitary services and solid waste disposal facilities servicing the site, as well as existing and proposed storm sewers, dry wells, retention/detention areas, sumps and drainage patterns. The point of discharge of all drains and pipes shall be specified in the plan. Drainage calculations shall also be provided.
 - (16) The location, dimensions, and lighting of all signs.
 - (17) The location, intensity, and orientation of outdoor lighting, including foot-candles with a photometric plan for the site.
 - (18) Location and size of interior and exterior areas and structures to be used for the storage, use, loading/unloading, recycling or disposal of hazardous substances.
 - (19) Location and screening of all outdoor storage areas, including trash receptacles and outdoor display or sales areas.
 - (20) Location of any identified watercourses, water bodies or wetlands, enclosed underground storm drains and the 100-year floodplain.
 - (21) Location of all proposed underground or aboveground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated stormwater or wash water, and all similar uses.
 - (22) Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of the cleanup.
 - (23) A staked property boundary survey and property description of the parcel proposed to be developed. A mortgage survey shall not be substituted for the required survey.
 - (24) The seal of the professional engineer, architect or landscape architect that prepared the site plan.
 - (25) The Planning Commission may waive any of the above requirements if it can be demonstrated that the required information is not relevant to the application. The Planning Commission may request additional information if needed.

Sec. 153.605. Review and Evaluation.

- (a) In the process of reviewing the site plan, the following standards shall be applied to the site plan and considered by the Planning Commission in determining whether the proposed development is appropriate:
 - (1) The location and design of driveways in relation to access streets and in relation to pedestrian traffic.
 - (2) The vehicular and pedestrian traffic circulation within the site and the location of automobile parking areas, with particular regard to the safety and conveniences of both vehicular and pedestrian traffic, and the satisfactory and harmonious relations between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.

- (3) The adequacy of essential public facilities and services, such as highways, streets, police and fire protection, refuse disposal, utilities, schools and drainage structures, including the size and location of catch basins.
- (4) The adequacy of landscaping, fences, and walls to achieve the objectives of this chapter and assurances for the continued maintenance of any such facility to which they are appurtenant.
- (5) Physical improvements, including, but not limited to, sidewalks, drives, and parking areas shall be built to adequate standards to minimize premature deterioration.
- (6) The site plan shall comply with the development standards of this chapter, including such items as minimum lot size, setbacks, maximum building height, minimum off-street parking spaces, landscaping, parking, lighting, and applicable use standards.
- (7) Site plans for development within the B-1, B-2 and B-3 zoning districts as well as that portion of the CBD district not covered by the downtown overlay zoning district shall comply with the city design guidelines as adopted by the City Council by resolution.

Figure 6-1



Sec. 153.606. Changes to Approved Site Plans.

- (a) All work conducted related to a project with an approved site plan shall be in conformance to that site plan. Major amendments to an approved site plan shall require the site plan to be resubmitted to the Planning Commission. A major amendment shall be considered any site plan amendment that does not qualify as a minor amendment.
- (b) Minor amendments to the site plan may be approved by the Zoning Administrator if the proposed change meets all requirements of this ordinance. If an amendment meets any of the following standards, it shall be considered a minor amendment. The Zoning Administrator, at their discretion, may refer a minor amendment to the Planning Commission for review.
 - (1) A change in building footprint of 1,000 square feet or 10 percent, whichever is less.
 - (2) A minor change to parking areas, landscaping, ingress/egress, or other site improvements that maintains compliance with all Zoning Ordinance provisions and conditions of site plan approval.
 - (3) Changes to on-site infrastructure, including utility connections, underground utilities, and stormwater retention/detention areas that do not impact adjacent properties or the ability of the city to provide necessary services.
- (c) Minor changes shall require written notice to the Planning Commission and a notation added to the record of the decision.

Sec. 153.607. Time Limits.

- (a) *Deadline to commence construction.* A building permit shall be issued for a project within one year from the date of approval of the site plan by the Planning Commission. If a building permit is not issued within one year, site plan approval shall expire.
- (b) *Deadline for completion.* A project approved by site plan shall receive an occupancy permit within two years from the date that the building permit was issued by the Building Inspector. If an occupancy permit is not granted within two years, site plan approval shall expire. Partial construction shall be removed within six months after expiration of the site plan.
- (c) *Extensions.* The Zoning Administrator may grant a one-year extension to the deadline to commence construction.

Sec. 153.608. Performance Guarantees.

In the interest of ensuring compliance with the provisions of this chapter, protecting the natural resources and the health, safety and welfare of the residents of the city and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission may require the applicant to deposit a performance guarantee as set forth herein. Performance guarantees shall be required in instances where an occupancy permit is requested prior to completion of all improvements on an approved site plan. The purpose of the performance guarantee is to ensure completion of improvements connected with the proposed use as required by this chapter, including, but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls,

landscaping, and widening strips. Performance guarantee shall comply with Act 110 of 2006. State law reference(s)—Performance guarantee, MCL 125.3505.

- (1) The term "performance guarantee" as used herein, means a cash deposit, certified check, or irrevocable bank letter of credit in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the city engineer.
- (2) Where the Planning Commission requires a performance guarantee, said performance guarantee shall be deposited with the city manager prior to the issuance of a zoning permit. The city shall deposit the performance guarantee, if in the form of a cash deposit or certified check, in an interest-bearing account.
- (3) An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the building permit.
- (4) In the event the performance guarantee deposited is a cash deposit or certified check, the city shall rebate to the applicant 50 percent of the deposited funds when 60 percent of the required improvements are completed as confirmed by the Zoning Administrator. The remaining 50 percent of the deposited funds shall be rebated to the applicant when 100 percent of the required improvements are completed, as confirmed by the Zoning Administrator.
- (5) Upon the satisfactory completion of the improvements for which the performance guarantee was required, as determined by the Zoning Administrator, the city treasurer shall return to the applicant the performance guarantee deposited and any interest earned thereon minus any administrative costs.
- (6) In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the city, the city shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the city to complete the improvements for which it was posted, the applicant shall be required to pay the city the amount by which the costs of completing the improvements exceeds the amount of the performance guarantee. Should the city use the performance guarantee or a portion thereof, to complete the required improvements, any amount remaining after said completion shall be applied first to the city's administrative costs in completing the improvement with any balance remaining being refunded to the applicant. If the applicant has been required to post a performance guarantee with another governmental agency other than the city to ensure completion of an improvement associated with the proposed project prior to the city's approval, the applicant shall not be required to deposit with the city a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the city and prior to the issuance of a building permit, the applicant shall enter into an agreement incorporating the provisions hereof with the city regarding the performance guarantee.

Sec. 153.609. As-Built Plans.

Prior to receiving a certificate of occupancy from the City Building Inspector, a final set of as-built plans shall be submitted to the Zoning Administrator reflecting any amendments that may have occurred during construction. If changes qualify for a minor site plan amendment, they may be approved by the Zoning Administrator. If no changes occurred during construction the current site plan on file may be marked "as-built" by the Zoning Administrator.

ARTICLE 7. SPECIAL USE PERMITS³

Sec. 153.701. Intent and Purpose.

Rather than permitting by right all the many and varied land use activities within each zoning district, it is the intent of this chapter to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand, practical latitude for the investor or developer, but that will, at the same time, promote the intent and purpose of this chapter, and ensure that the land use of activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land uses. In order to provide controllable and reasonable flexibility, this chapter permits detailed review of certain specified types of land use activities which, because of its particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Uses possessing these characteristics may be authorized within certain zoning districts by the issuance of a special use permit. The Planning Commission shall have the opportunity to impose conditions and safeguards upon each use which are deemed necessary for the protection of the public welfare.

Sec. 153.702. Permit Procedures.

An application for any use identified as a special use in the zoning classification of the subject property shall be submitted and processed under the following procedures:

- (1) *Submission of application.* Any application shall be submitted through the City Clerk on a special form for that purpose. Each application shall be accompanied by the payment of a fee as adopted by the City Council from time to time.
- (2) *Data required.* Every application shall be accompanied by the following information and data:
 - a. The special use permit application form supplied by the City Clerk, filled out in full by the applicant, including a statement of supporting evidence concerning information applicable to the general standards specified in Sec. 153.703(1).
 - b. A complete site plan as required in ARTICLE 6 of this chapter. If the special land use does not include any new construction, a plot plan as required for a zoning permit in Sec. 153.1203 may be submitted rather than a full site plan.
- (3) *Site plan part of approved special use permit.* The site plan or plot plan, as approved, shall become part of the record of approval, and subsequent actions relative to the activity authorized shall be consistent with the approved site plan. Changes to approved site plans must meet the requirements of Sec. 153.606.

³State law reference(s)—Special land uses, MCL 125.3502 et seq.

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- (4) *Changes to uses approved by special use permit.* Changes to uses approved by special use permit shall require approval by the city Planning Commission, following the same procedures as if the application were new if it meets any of the following standards:
- a. The usable floor space will increase by 25 percent or more.
 - b. Changes to the special land use occur that negatively affect adjacent properties, increase demand on public services, constitute an expansion of the special land use beyond the original approval, or are otherwise inconsistent with the original application and approval.
 - c. The addition of an accessory building or structure to an approved special land use shall not require a new application unless the Zoning Administrator determines that the accessory building or structure will negatively affect adjacent properties.
- (5) *Planning Commission review.* The application shall be transmitted to the city Planning Commission for their review.
- (6) *Planning Commission public hearing.* Each special use permit application shall require one Planning Commission public hearing to be noticed and conducted as required by Public Act No. 110 of 2006 (MCL 125.3101 et seq.) and Sec. 153.1208.
- (7) *Planning Commission decision.* Following the public hearing, the Planning Commission shall consider the special use permit application. If it is felt additional study is necessary, it shall establish the date of an additional meeting.
- a. Following review of the proposed special use permit application plan, the Planning Commission shall approve, approve with conditions, postpone the decision pending additional information, or deny the special use permit application.
 - b. If the Planning Commission approves the special land use, it will proceed with review of the proposed site plan. The Planning Commission shall approve, approve with conditions, postpone the decision pending additional information, or deny the site plan.
 - c. The decisions rendered by the Planning Commission on both the special use permit application and site plan shall be accompanied by a full explanation of the reason for the action taken and shall be based on the criteria in this chapter. Any permit issued shall contain all the specified conditions under which the use is allowed.
- (8) *Permit revocation.* The Planning Commission may revoke any special use permit if the structure or use does not comply with any conditions stated on the permit or imposed at the time of special use approval. Prior to permit revocation, the Planning Commission shall hold a public hearing on the revocation. The public hearing shall meet the same notice requirements as required for the Planning Commission's original consideration. Following the public hearing, the Planning Commission shall make a decision regarding revocation based on whether the activities, structures and other site characteristics satisfactorily comply with the conditions stipulated in the special use permit. After a revocation notice has been given, the use for which the permit was granted must cease within 60 days.
- (9) *Violation and penalties.* If the special use permit is revoked, failure to terminate the use for which the permit was granted within 60 days is declared to be a nuisance per se and a violation of the city municipal civil

infractions ordinance. The violation shall be reported to the city attorney who is hereby authorized to, and may initiate procedures to eliminate such violations.

- (10) *Reapplication*. No application for a special use permit which has been denied wholly or in part by the Planning Commission shall be resubmitted until the passage of one year or more from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions.

Sec. 153.703. Basis for Determinations.

Before making a recommendation on a special use permit application, the Planning Commission shall establish that the following general standards, as well as the specific standards outlined in other applicable sections of this chapter, shall be satisfied:

- (1) *General standards*. The Planning Commission shall review each application for the purpose of determining that each proposed use meets the following standards and, in addition, shall find adequate evidence that each use at its proposed location will:
- a. Be harmonious with and in accordance with the general principles and objectives of the City Master Plan.
 - b. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character or the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
 - c. Not be hazardous or disturbing to existing or future uses in the same general vicinity.
 - d. Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools.
 - e. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of hours of operation or excessive production of traffic, noise, smoke, fumes, glare, vibrations or odors.

Sec. 153.704. Appeals of Special Land Use Decisions.

Special land use decisions are appealable to the Zoning Board of Appeals, following the procedures outlined in Sec. 153.1008.

Sec. 153.705. Time Limits.

- (a) Special land use approval shall expire with the associated site plan.
- (b) If a site plan is not required for the special land use, the use for which the special land use was requested must commence within one year of approval by the Planning Commission.
- (c) The Zoning Administrator may grant one extension for an additional one year if a use has not commenced.

ARTICLE 8. LANDSCAPE STANDARDS⁴

Sec. 153.801. Intent and Purpose.

The purpose of this Article is to promote public health, safety and welfare by providing regulations and requirements for the design, installation and maintenance of landscaping and screening as buffer zones between zoning districts, along roadways, between adjacent buildings and in parking lots. The standards of this Article are intended to protect the character of the surrounding area, prevent trespassing into unsafe areas, discourage theft, stabilize soils, control windblown dust and debris, increase ground water infiltration, and reduce noise in a well-balanced aesthetically pleasing and functional manner, through requirements for site design and the use of landscape materials. Applicants are encouraged to provide landscaping in addition to the minimum requirements of this chapter to improve the function, appearance and value of their property and surrounding properties.

Sec. 153.802. Application.

Single-family and duplex residential lots are excluded from the provisions of this Article. The requirements set forth in this Article shall apply to all lots, sites, and parcels which are subject to local site plan review and are either developed or expanded following the effective date of the ordinance from which this chapter is derived. No site plan shall be approved unless said site plan shall show landscaping consistent with the provisions of this Article. All information to determine compliance with this section shall be included on the site plan or on a separate landscape plan.

Sec. 153.803. Minimum Buffer Zones.

A buffer zone shall be provided within the setback between the subject site and all adjacent properties according to Table 8-1. Walls or fences shall typically be prohibited along a public street right-of-way or in a front yard unless specifically approved by the Planning Commission. The height of the wall or berm shall be measured from the surface of the parking area or land on the nonresidential side of the wall. All walls shall meet the standards described in Sec. 153.804.

⁴State law reference(s)—Municipal forests, MCL 324.52701 et seq.

Table 8-1: Zoning of Adjacent Site

Zoning or Use of Subject Site	Required Buffer Zone			
	Single-family or Duplex Residential	Multiple-family Residential	Commercial	Industrial
Commercial	Buffer Zone A <u>and</u> a 6-foot-high wall/ fence or 4-foot-high berm with landscaping at a minimum of 6 feet at planting	Buffer Zone A <u>and</u> a 6-foot-high wall/ fence or 4-foot-high berm with landscaping at a minimum of 6 feet at planting.	None	None
Multiple-family Residential	Buffer Zone B <u>and</u> 6-foot-high wall/ fence or 4-foot-high berm with landscaping at a minimum of 6 feet at planting	None	None	None
Industrial	Buffer Zone B <u>and</u> 8-foot-high wall/fence or four 4-foot-high berm with landscaping at a minimum of 8 feet at planting	Buffer Zone A <u>and</u> 8-foot-high wall/fence or 4-foot-high berm with landscaping at a minimum of 8 feet at planting	Buffer Zone B	None

A = Two deciduous canopy trees and four large shrubs, or one canopy tree, one evergreen tree and four large shrubs per each 25 linear feet along the property line. All property line distances shall be rounded upward to the nearest foot.

B = One deciduous canopy tree and four large shrubs, or one evergreen tree and four large shrubs per each 25 linear feet along the property line. All property line distances shall be rounded upward to the nearest foot.

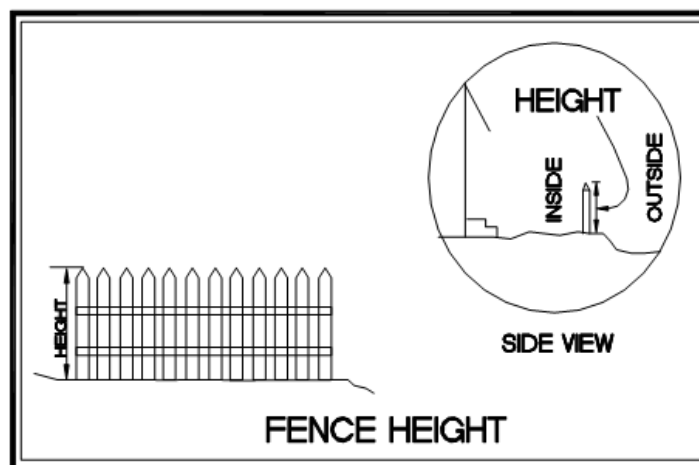
- (1) Where the adjacent property, including property across a public street or private road, is zoned or used as single-family or duplex residential, or the Planning Commission finds there are likely adverse impacts from the proposed use on adjacent properties, the Planning Commission may require additional landscaping (trees, fences, shrubs, wall or berm) along the property line or within the site to sufficiently screen the parking lot, vehicle headlights, loading zones, outdoor display areas, storage yards or accessory structures.
- (2) The Planning Commission may modify the requirements of this section upon demonstration by an applicant that they are excessive or there are physical constraints on the site that prohibit installation of the required buffer materials.

Sec. 153.804. Obscuring Walls or Fences.

Required walls or fences shall comply with the following standards listed:

- (1) *Scope.* The installation, erection, and/or maintenance of a fence are hereby prohibited except in strict compliance with this ordinance. A permit to be issued by the Zoning Administrator shall be obtained prior to installation or erection of any fence within the corporate limits of the City of Flushing. Application shall be made upon a form provided and shall require such information as may be required by the Zoning Administrator. All applications for a permit shall be accompanied by a filing fee as may be established by City Council resolution. Required landscaping shall be located outside of the fence or wall to screen use from adjacent property.
- (2) *Calculation of fence height.* The minimum height of the fence shall be computed as the distance from the base of the fence at normal grade to the top of the highest component of the fence.

Figure 8-1



- (3) *Design requirements and height.*
 - a. All fences in areas zoned or used for residential purposes shall be of an ornamental type and shall not be more than 6 feet in height, above the grade level. Any metal, including chain link or masonry fence further shall not be more 6 feet in height above grade level. Such fences shall not extend beyond the front building line of the principal structure, except that non-obscuring fences no higher than 36 inches may be permitted within the front yard.
 - b. *Business, office, or commercial fences.* All fences in areas zoned or used for business, office, or commercial purposes shall be of an ornamental type, and shall not be more than 6 feet in height above grade level. And a maximum of 8 feet in height with Planning Commission approval.
 - c. *Industrial fences.* All fences in areas zoned or used for industrial purposes shall not be less than 8 feet in height nor exceed 12 feet in height above surrounding grade level without Planning Commission approval.
 - d. Fences separating single or two-family residential property from a multiple-family residential property. Areas zoned or used for multiple-family residential purposes, which abut single- or two-family

property, shall have erected upon said adjoining property line, a fence of an ornamental type, to be 6 feet in height above grade level.

(4) *Material specifications.* Fences shall be constructed of wood, metal, or masonry, and other acceptable materials, excluding plastic weave designs. Only new material shall be used, which has been manufactured and/or treated in a manner to prevent rust and corrosion, and/or rot and decay.

a. All fences shall be constructed of the following:

1. Two (2) inch iron pipe.
2. Two (2) inch angle iron.
3. Three and one half (3.5) inch wooden posts.
4. Four (4) inch reinforced concrete posts; or any other member having equal stability. All posts shall be sunk in the soil to a depth of at least 3 feet.
5. Fences which are deemed necessary for noise suppression shall be concrete, decorative concrete blocks, or masonry.

b. No person shall erect or cause to be erected a fence which is:

1. Made with or upon which is fixed barbed wire.
2. Has any protective spike, nail, or sharp pointed object.
3. Charged with electric current.

c. *Location.*

1. All fences must be located entirely on the private property of the person constructing the fence, provided that if the adjoining property owner(s) consent in writing to the construction of a fence on this property line, it may be so constructed. Such written consent shall be filed with the application for a permit.
2. No fence shall be erected between the front building line and the front property of the premises, except as otherwise provided by this ordinance; Sec. 153.804(3)a, b, and c.
3. Decorative side facing outward.
4. No fence shall be located nearer than one foot to the inside sidewalk line.
5. Gates in fences shall not open over public property.

(5) *Maintenance of fence.* Fences must be maintained in a neat and safe condition, so as not to endanger life or property. Any fence which, through lack of repair, type of construction, or otherwise, endangers life or property is hereby deemed a nuisance. The Zoning Administrator shall notify the owner, agent, or person in control of the property on which such fence is located of the existence of such nuisance and specify the required repairs or modifications to be made to render the fence safe or require that the unsafe fence or any portion thereof to be removed.

(6) *Lot lines.*

- a. The Building Inspector may require the owner of property upon which a fence is located or is to be located to establish lot lines upon the property through placing of permanent markers located by a licensed surveyor.

(7) *Existing fences.*

- a. Fences presently in existence shall not be altered, enlarged, rebuilt, or reconstructed without first having obtained a permit therefore from the Zoning Administration. Such fences, when repaired or replaced, shall conform to all provisions of this ordinance.

(8) *Exemptions.*

- a. The fence requirements and limitations of this Article shall not apply to school property or city-owned playgrounds or recreational areas.

(9) Bumper blocks shall be required where parking is adjacent to walls or fences.

Sec. 153.805. Berm Standards.

Required berms shall be constructed as landscaped earth mounds with a crest area at least 4 feet in width. The exterior face of the berm shall be constructed as an earthen slope. The interior face of the berm may be constructed as an earthen slope or retained by means of a wall, terrace or other means acceptable to the Planning Commission. All areas of the berm must be seeded. Whenever an earthen slope is provided, it shall be constructed with a slope not to exceed 1 foot of vertical rise to 3 feet of horizontal distance (1:3). Slightly undulating surfaces in an aesthetically pleasing design, as determined by the Planning Commission, are acceptable.

Sec. 153.806. Required Parking Lot Trees and Parking Lot Islands.

(1) *Interior zone Landscaping.*

- a. One parking lot island will be required for every 15 parking spaces. Fractions will be rounded down. For example, if a parking lot has 27 parking spaces, only 1 landscaped interior island will be required.
- b. *Design of parking lot islands.* All parking lot islands shall be curbed. Islands shall be at least 150 feet in area. Each island shall be at least 10 feet wide, with a depth 2 feet shorter than the depth of the adjacent parking space. Islands shall have a minimum of 10 feet at the ends facing main aisles. Corners of parking lot islands shall have a minimum radius of 1 foot where the island is not adjacent to main traffic aisle.
- c. *Curb bump outs.* Curb bump-outs along the exterior of a parking area may be substituted for landscaped islands, so long as the curb bump-out area complies with all the requirements for parking lot islands.

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- d. *Parking lot trees.* Parking lots shall include canopy trees according Table 8-2.

Table 8-2

Use	0-100 parking spaces	101-200 parking spaces	Over 200 spaces
Commercial or Multiple-family	1 canopy tree per 10 spaces	1 canopy tree per 10 spaces	1 canopy tree per 12 spaces
Industrial	1 canopy tree per 12 spaces	1 canopy tree per 15 spaces	1 canopy tree per 15 spaces

- (2) *Tree location.* All the required parking lot trees shall be placed within the parking lot envelope, described as the area including the parking lot surface and extending 15 feet from the edge of the parking lot. A minimum of one-third of the required trees shall be placed within the interior of the parking area. Landscaping and canopy tree placement shall be dispersed throughout the parking lot in order to balance and soften large areas of pavement and help direct traffic flow within the lot.
- (3) *Tree base.* Each tree shall be surrounded by an area of grass or living ground cover at least 150 square feet in size to provide for adequate resources of air and water. Tree plantings shall also be protected from automobiles with curbing or other suitable devices.
- (4) *Greenbelt trees.* Required parking lot trees shall not be credited towards required greenbelt or buffer trees.
- (5) *Parking lot screening.*
- a. All parking lots must be screened on all sides which abut a residentially used parcel, with a type A buffer zone. See Sec. 153.803 for type A buffer zone requirements. If an obscuring wall or fence is selected as the buffer method, see Sec. 153.804 for requirements.

Sec. 153.807. Greenbelts Required Along and Within Right-of-Way.

A greenbelt shall be planted along the right-of-way of any public street. The Planning Commission may allow such planting to be placed anywhere within the front yard if there is no front yard parking. The greenbelt shall meet the following standards:

- (1) The greenbelt shall include only living materials and planting beds, except for approved sidewalks, signs, driveways and essential services.
- (2) The greenbelt shall include one deciduous canopy tree per 30 linear feet of the frontage including any openings for driveways, sidewalks, or easements.
- (3) The Planning Commission may approve substitution of evergreen trees for up to 50 percent of the required greenbelt trees upon determining evergreens would be consistent with the existing character of the area.
- (4) Greenbelt trees should be arranged to simulate a natural setting such as massing or staggered rows, except where a more formal arrangement is determined to be more consistent with the existing character of the city.
- (5) Landscaping materials arrangement shall ensure adequate site visibility for motorists, adequate clearance for pedestrians and vehicles and accessibility to fire hydrants. Plant materials within the 30-foot site distance triangle shall not be more than 30 inches in height (per Sec. 153.105(1)).

Sec. 153.808. Ten (10) Percent Site Landscape Requirements.

In addition to any buffer zone, parking lot trees, or greenbelts required by this Article, 10 percent of the total site area excluding existing thoroughfare right-of-way shall be landscaped with plant materials. Required landscaping shall be provided adjacent to or within close proximity to the perimeter of the principal structure. Landscape design is encouraged to face or be visible from public thoroughfares and principal structures on public access ways. A minimum of two-thirds of the required landscaping must be located within the front or side yard setback in order to be counted.

- (1) Plant material and planting design is encouraged to be ornamental in character and based on minimum standards for plant material and spacing.
- (2) Deciduous canopy trees and large evergreens will not be credited for the ten percent landscape requirements.
- (3) Shredded hardwood, bark mulch, stone mulch, or vegetative ground covers shall be utilized within required landscape areas. Grass, lawn or sod will not be credited for principal structure landscape requirements.
- (4) The 10 percent landscape requirement will not apply in the CBD zoning district.

Sec. 153.809. Plant Material Specifications.

All plant material shall be free of disease and insects at time of planting, and conform to the American Standard for Nursery Stock of the American Association of Nurserymen ANZI Z60.1.

- (1) *Minimum plant material planting size.*
 - a. Evergreen trees shall be a minimum of 5 feet in height.
 - b. Narrow evergreens shall be a minimum of 3 feet in height.
 - c. Ornamental trees shall be a minimum of 10 feet in height or 1½-inch caliper.
 - d. Large deciduous shrubs shall be a minimum of 4 feet in height.
 - e. Deciduous canopy trees shall be a minimum of 15 feet in height or 2-inch caliper.
 - f. Small evergreen or deciduous ornamental shrubs shall be a minimum of 18-inch to 24-inch spread.
- (2) *Plant material spacing.*
 - a. Plant materials shall not be placed closer than 4 feet from the fence line or property line. Where plant materials are placed in two or more rows, plantings shall be staggered in rows and/or grouped informally to create a naturalistic appearance.
 - b. Evergreen trees shall be planted not more than 15 feet on center.
 - c. Narrow evergreens shall be planted not more than 6 feet on center.
 - d. Deciduous canopy trees shall be planted not more than 25 feet on center.
 - e. Ornamental trees shall be planted not more than 10 feet on center.
 - f. Large deciduous shrubs shall be planted not more than 4 feet on center.

(3) *Plant material and design variety.* The overall landscape plan shall demonstrate a variety of plant material with not more than 50 percent of any one species utilized throughout the design.

(4) *Suggested (not required) plant materials.*

a. *Evergreen trees.*

1. Juniper
2. Hemlock
3. Fir
4. Pine (dwarf, globe, pendulous, species/cultivars are not permitted)
5. Spruce
6. Douglas-Fir

b. *Narrow evergreens (dwarf, globe, pendulous, species/cultivars are not permitted)*

1. Column Hinoki cypress
2. Blue columnar Chinese juniper
3. Pyramidal red-cedar
4. Swiss stone pine
5. Pyramidal white pine
6. Irish yew
7. Douglas arbor-vitae
8. Columnar giant arbor-vitae

c. *Ornamental trees.*

1. Flowering crabs
2. Service berry
3. Dogwood
4. Redbud
5. Hornbeam
6. Hawthorn
7. Magnolia

d. *Large deciduous shrubs.*

1. Honeysuckle
2. Viburnum
3. Mock-orange

-
4. Forsythia
 5. Lilac
 6. Ninebark
 7. Cotoneaster
 8. Hazelnuts
 9. Euonymus
 10. Privet
 11. Buckthorn
 12. Sumac
- e. *Deciduous canopy trees.*
1. Oaks
 2. Hard maples
 3. Hackberry
 4. Birch
 5. Beech
 6. Ginkgo (male species only)
 7. Honey locust (thornless and seedless cultivars only)
 8. Hop hornbeam
 9. Linden

(5) *Trees not permitted as part of an approved landscape plan.*

- a. Blue Spruce
- b. Box elder
- c. Soft maples (silver)
- d. Elms
- e. Pear Trees
- f. Poplars (including cottonwoods)
- g. Willows
- h. Horse chestnut (nut bearing)
- i. Tree of heaven
- j. Catalpa

Sec. 153.810. Existing Tree Preservation Incentives.

The standards outlined below are intended to encourage the preservation of quality and mature trees by providing credits, at Planning Commission approval, toward the required trees for greenbelts, buffer zones and within parking lots.

- (1) All trees 8-inch caliper and over shall be identified on the site plan with notations of trees to be preserved and trees to be removed.
- (2) Trees intended to be preserved shall be noted with a unique symbol on the site plan and be protected during construction through the use of construction fencing at or beyond the dripline of the tree or trees to be preserved.
- (3) Trees to be preserved shall be considered for credit only if they are located on the developed portion of the site as determined by the Planning Commission. The Planning Commission, pursuant to site plan approval, may allow credit for such plant material preservation if it will maintain and encourage the intent of this chapter. To obtain credit consideration, the preserved trees shall be of a high quality and at least 2-inch caliper.
- (4) Credit consideration for preserved trees shall be:

Table 8-3

Preserved Tree Caliper*	Number of Trees to be Credited
12 inches and over	3
8 inches to 11.99 inches	2
6 inches to 7.99	1

* Caliper is the diameter of a tree trunk and shall be measured at a height 6 inches above the existing grade up to and including 6-inch caliper size and 12 inches above the existing grade for larger sizes.

- (5) To protect and encourage the continued health and vitality of the preserved trees, the ground within the dripline of the trees shall be maintained in the existing natural state. Storage of soils or other materials during or after construction within the tree dripline is prohibited.
- (6) If preserved trees die within three years after construction the property owner shall replace with trees required before credit was allowed. Said trees shall be replaced within 60 days of written notice from the city or within an extended time period as specified in said notice.
- (7) The minimum number of required trees shall not be reduced by more than 50 percent through the use of approved tree credits. However, the Planning Commission during site plan review, may determine existing landscaping or screening intended to be preserved would provide comparable required landscaping, buffering or screening and reduce or waive landscaping or buffering requirements.

Sec. 153.811. Minimum Standard for Installation and Maintenance.

- (a) *Installation.* Landscaping shall be installed in a sound workman like manner and conform to the American Standard for Nursery Stock ANSI Z60.1. If building or paving construction is completed during a planting season, then no certificate of occupancy will be issued unless the landscaping meets the requirements herein provided. If building or paving construction is completed in an off planting season, the certificate of occupancy will be

issued only after the owner provides a performance bond to ensure installation of required landscaping in the next planting season.

- (b) *Material removal.* Tree stakes, guy wires and tree wraps are to be removed after one year.
- (c) *Maintenance.* Greenbelt areas and plant materials required by this Article shall be kept free from refuse and debris. To keep the buffer zone in effect, plant materials shall be maintained in a healthy growing condition, neat and orderly in appearance. If any plant material required by this chapter dies or becomes diseased, they shall be replaced within 30 days of written notice from the city or within an extended time period as specified in said notice.

Sec. 153.812. Ground Cover.

- (a) All areas of ground on site not covered by impervious surface must be grassed, mulched, stoned, or the like.

Sec. 153.813. Compliance for Pre-Existing Sites.

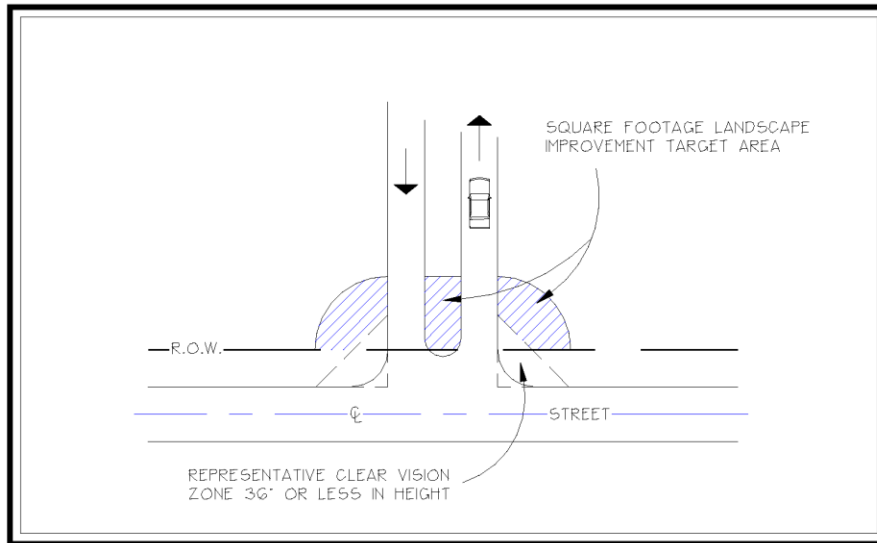
- (a) In any case where site plan review is required and the existing building and/or parking area is being increased by at least 50 percent over the originally approved site plan or the use is being changed to a more intense use, as determined by the Planning Commission, the site shall be brought into 100 percent compliance with the landscape standards herein.
- (b) In any case where site plan review is required and the existing building and/or parking area is being increased by at least 25 percent over the originally approved site plan or the use is being changed to a more intense use, as determined by the Planning Commission, the site shall be brought into 50 percent compliance with the landscape standards herein. In situations where the increase in the existing building and/or parking area is less than 25 percent over the original site plan, the requirement of new landscaping shall be equal to 2 percent of compliance for every 1 percent of increase in building or parking footprint (example: a building or parking area increase of 10 percent requires a 20 percent compliance with the landscape standards). If any development or principal use requiring a certificate of occupancy is destroyed by any means beyond 50 percent of the value of the structure (as determined by calculating twice the structure's state equalized value), the site shall be brought into full compliance with the landscape standards herein.

Sec. 153.814. Residential Development Entry Landscaping.

Landscaping shall be required at vehicular entry points for residential developments including subdivisions, condominium developments, multiple-family developments, retirement communities and other developments.

- (1) For residential developments which do not otherwise require landscaping as defined in Sec. 153.802, vehicular entry points shall require landscaping. This shall consist of a minimum of 300 square feet of landscaping which meets the standards in Sec. 153.808(1), (2) and (3). Landscaping shall be generally provided in the area delineated in the illustration set forth in Sec. 153.814(2).
- (2) For residential developments which require landscaping, landscaping for residential development entries shall be counted toward the ten percent landscaping requirement in Sec. 153.808. Residential development entry landscaping shall meet the requirements contained in this Article. Landscaping shall be generally provided in the area delineated in Figure 8-2.

Figure 8-2



- (3) The developer shall submit a maintenance plan which designates the legal entity to be principally responsible for the continuous maintenance of the entry landscaping and the means for financing the maintenance.

Sec. 153.815. Detention and Retention Pond Landscaping.

- (a) All detention and retention pond areas shall be seeded and maintained with natural vegetation along with necessary drainage structures and materials.
- (b) Detention and retention ponds shall provide a type B buffer zone surrounding the perimeter of the pond, see Table 8-1. If the pond is adjacent to a residential district, a fence or additional screening may be required. See Sec. 153.803 for type B buffer zone requirements.

Sec. 153.816. Planning Commission Landscaping Waivers.

When an applicant demonstrates that full compliance with landscaping standards is excessive or impossible due to unique features of a parcel that are not present on other parcels in the same zoning district, the Planning Commission may grant a waiver from required landscaping in this Article.

ARTICLE 9. NONCONFORMING USES, LOTS AND STRUCTURES⁵

Sec. 153.901. Intent.

- (a) Within the districts established by this chapter or amendments that may later be adopted there exists lots, structures, other improvements and uses of land and structures which were lawful before this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment.
- (b) It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved and provide specific standards for their gradual elimination. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- (c) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building properly approved on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the ordinance from which this chapter is derived and upon which a valid building permit is in effect.

Sec. 153.902. Nonconforming Lots.

In any zoning district any principal and customary accessory building may be erected on any single lot of record that exists at the time of the effective date of adoption or amendment of the ordinance from which this chapter is derived but does not meet the required area or width requirements, provided, however, that all other lot requirements, including required setbacks, are met.

Sec. 153.903. Nonconforming Uses of Land.

Where, at the effective date of adoption or amendment of the ordinance from which this Article is derived, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance from which this chapter is derived. This prohibited enlargement includes attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

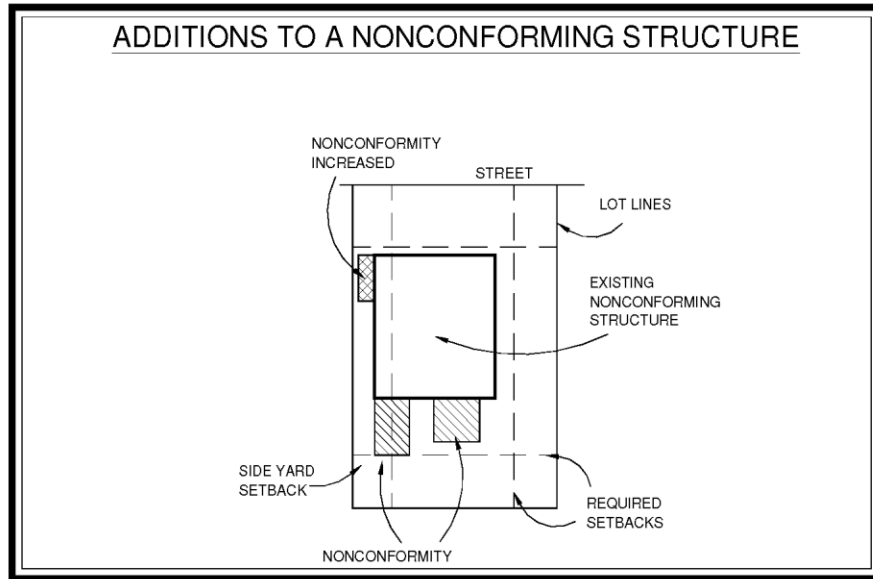
⁵State law reference(s)—Nonconforming uses or structures, MCL 125.3208.

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- (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of the ordinance from which this chapter is derived.
 - (3) If such nonconforming use of land ceases for a period of more than 12 months, the Zoning Administrator shall request a determination by the ZBA to determine if the use has been abandoned. If it is determined that the nonconforming use has been abandoned, then any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which the land is located.
 - (4) If no structural alterations are made, any nonconforming use of land, may be changed to another nonconforming use provided that the ZBA, based on the standards in Sec. 153.910, shall find that the proposed use is not more nonconforming than the existing nonconforming use. In permitting such change, the ZBA may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter. See Sec. 153.1010.

Sec. 153.904. Nonconforming Structures.

Where a lawful structure exists at the effective date of adoption or amendment of the ordinance from which this chapter is derived that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such structure may be enlarged, reconstructed or altered in a way which increases its nonconformity. This shall include enlarging or altering both nonconforming area and volume.
- (2) Should such structure be destroyed by any means to an extent of more than 60 percent of the value of the structure, as determined by calculating a value which is twice the structure's state equalized value, it shall not be reconstructed unless it conforms with this chapter. In an area zoned as R-1, where the lot frontage is less than 75 feet and a nonconforming structure has sustained damage in excess of 60 percent of the building value for rebuilding a nonconforming structure, rebuilding of a nonconforming single-family residence is authorized, provided the construction begins not later than six months after the date of loss, is completed within one year from the date of loss, and the vertical and horizontal foot print is not expanded beyond the structure damaged in the loss.
- (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is moved.



Sec. 153.905. Nonconforming Uses of Structures and Land.

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of the ordinance from which this Article is derived, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located. This prohibited enlargement would include attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.
- (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of the ordinance from which this chapter is derived, but no such use shall be extended to occupy any land outside such building.
- (3) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the ZBA, based on the standards in Sec. 153.910, shall find that the proposed use is not more nonconforming than the existing nonconforming use. In permitting such change, the ZBA may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter.
- (4) Any structure, or structure and land in combination, in or on which a nonconforming use is replaced by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
- (5) When a nonconforming use of a structure, or structure and premises in combination, ceases for a period of more than 12 months, the Zoning Administrator shall request a determination by the ZBA to determine if the use has been abandoned. If it is determined that the nonconforming use has been abandoned, then the

structure of structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.

- (6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate its nonconforming status.

Sec. 153.906. Repairs and Maintenance.

- (a) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 50 percent of the market value of the building, as determined by calculating twice the structure's state equalized value, provided that the cubic content of the buildings as it existed at the time of passage or amendment of the ordinance from which this Article is derived shall not be increased.
- (b) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

Sec. 153.907. Special Land Uses Not Nonconforming Uses.

If a special use permit is issued as provided in this chapter, the use shall not be deemed a nonconforming use, but shall be deemed a conforming use. A use established legally without special use permit approval which now requires a special use permit due to a text change or rezoning is a nonconforming use until it receives special use permit approval.

Sec. 153.908. Change of Tenancy or Ownership.

There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, structures, and premises provided there is no change in the nature or character of such nonconforming uses. Change in tenancy, ownership or management shall not remove nonconforming status.

Sec. 153.909. Standards for Determining Abandonment.

If the Zoning Administrator identifies a legal nonconforming use that they believe has been abandoned, they shall submit the property to the ZBA for a determination of abandonment. The ZBA shall hold a public hearing, following notice as outline in Sec. 153.1208 of this ordinance. The ZBA shall determine whether or not intent to abandon the nonconforming use was demonstrated based on a preponderance of the following factors:

- (a) Reports such as from the building inspection or health department indicating the property is or has not been suitable for occupation.
- (b) Disconnection of utilities.
- (c) Evidence that the use was relocated to a new site.
- (d) Evidence of a "going out of business" sale.
- (e) Signs advertising the business has been removed.
- (f) The use has been discontinued for one (1) year, except where government action such as road construction has prevented access to the premises, or where a clear intent to discontinue has not been demonstrated.

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- (g) Removal of the equipment or fixtures necessary for the operation of the nonconforming use.
 - (h) Request by the property owner for changes in their property tax designation inconsistent with the nonconforming use.
 - (i) Other actions by the property owner or lessee that demonstrates an intent to abandon the nonconforming use.

Sec. 153.910. Standards to Allow Change from One Nonconforming Use to Another.

A property owner may request approval from the Zoning Board of Appeals to change a nonconforming use to another nonconforming use by submitting an application to the Zoning Administrator. The Zoning Board of Appeals shall hold a public hearing following notice as outlined in Sec. 153.1208 of the Zoning Ordinance. The Zoning Board of Appeals shall approve the request if it determines that the proposed use is not more nonconforming than the current use based on the following factors:

- (a) The proposed use is permitted in the same zoning districts as the previous use in the same manner. For example, if the former use is permitted by-right in the industrial zoning district, the new proposed use must also be permitted by right.
- (b) The anticipated off-site impact of the proposed use due to traffic, hours of operation, and generation of noise, dust or odors or general intensity is the same or less than the previous use.

Sec. 153.911. Other Nonconforming Improvements.

Specific improvements not otherwise addressed in this Article shall be addressed as follow:

- (a) Nonconforming landscaping and other improvements regulated in ARTICLE 8 shall be required to be brought into compliance when changes require site plan review.
- (b) Nonconforming parking lots that are nonconforming due to the size or dimensions of spaces or the dimensions of access aisles shall be brought into compliance with whenever the number of spaces is increased, or the spaces are restriped.
- (c) Nonconforming site lighting that is nonconforming due to the height of light poles, the lack of shielding or other lighting requirements shall be brought into compliance with the ordinance whenever the lighting fixture or mountings are modified or replaced.

ARTICLE 10. ZONING BOARD OF APPEALS⁶

Sec. 153.1001. Creation.

A Zoning Board of Appeals (ZBA) is established in accordance with Public Act No. 110 of 2006 (MCL 125.3101 et seq.).

Sec. 153.1002. Membership.

The ZBA shall consist of not less than five regular members, and two alternate members. Members of the ZBA shall be appointed to staggered terms by resolution of the City Council. One member of the ZBA shall be a member of the Planning Commission. Appointments to fill vacancies caused by members resigning prior to the completion of their term shall be for only the remainder of that term. All members will serve three (3) year terms. The term of ZBA members also serving as a representative of the Planning Commission shall be consistent with their term timelines of their other body.

Sec. 153.1003. Officers and Duties.

- (a) The ZBA shall have a chairperson, vice chairperson and a secretary.
 - (1) The chairperson shall preside at all meetings.
 - (2) The vice chairperson shall preside in the absence of the chairperson.
- (b) If the chairperson and vice chairperson are absent and a quorum is otherwise present, the longest serving ZBA member may serve as a temporary acting chairperson (pro tem) for the purpose of conducting said meeting at their discretion.
- (c) An election of officers of the board shall be held at the regular March meeting of each year.
- (d) The term of office of chairperson and vice chairperson shall be for one year.
- (e) The secretary, designated by the City Clerk, shall keep a record of the minutes of all meetings; a record of all transcripts, records, plans, etc., brought before the board, and record the vote of each member upon each question, or if absent or failing to vote.
- (f) City Clerk. The clerk must maintain a record of all ZBA variance decisions, interpretations, appeals, and any other decisions and motions made by the board.

⁶State law reference(s)—Zoning Board of Appeals, MCL 125.3601 et seq.

Sec. 153.1004. Meetings.

All regular meetings shall be conducted according to the following order of business:

- (1) Regular meetings shall be held quarterly, or more frequently, at the call of the chairperson and at other times as the ZBA in its rules of procedure specify.
- (2) Special meetings may be called by the chairperson or, in their absence, the vice chairperson, as deemed necessary, with seven days' prior notification. Such notification will include the reason and/or agenda of the special meeting. Special meeting notices must be posted at the city hall.
- (3) Any member of the ZBA may be removed by the City Council for misfeasance, malfeasance or nonfeasance in office, upon written charges and after public hearing. A member shall disqualify himself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself from a vote in which the member has a conflict of interest constitutes malfeasance in office. Any regular or alternate member of the ZBA who has three unexcused consecutive meeting absences will be reported to the City Council which may establish nonfeasance in office.
- (4) All meetings, hearings, and records shall be open to the public and posted in compliance with Public Act No. 267 of 1976 (MCL 15.261 et seq.), the Open Meetings Act.
- (5) A regular meeting shall be conducted according to the following order of business:
 - a. Call to order.
 - b. Roll call.
 - c. Pledge of allegiance.
 - d. Approval of minutes of the previous meeting.
 - e. Agenda approval.
 - f. Meeting open to the public.
 - g. Old business.
 - h. New business.
 - i. Staff reports.
 - j. Adjournment.
- (6) Meetings of the ZBA shall be conducted in accordance with the provisions of Robert's Rules of Order, as revised.
- (7) All rules, regulations and procedures of the board shall be in compliance with the Charter and ordinances of the city and the statutes of the state.
- (8) The board shall maintain a record of its proceeding, which shall be filed in the office of the City Clerk and shall be a public record.
- (9) The ZBA shall state the grounds of any determination made by the board.

Sec. 153.1005. Voting.

- (a) No meeting may be conducted without a quorum being present. A quorum shall consist of three members of the board including alternate members. The concurring vote of a majority of the appointed members of the board shall be necessary:
 - (1) To reverse any order requirement, decision, or determination of any administrative official or body.
 - (2) To decide in favor of the applicant on any matter upon which the board is required to pass under this chapter.
 - (3) To affirm any interpretation of this chapter text or zoning district map.
 - (4) To effect any variance in the requirements of this chapter, except that a concurring vote of two-thirds of the members of the ZBA shall be necessary to grant a variance from uses of land permitted in an ordinance.
- (b) Voting shall be by roll call vote and shall be recorded by yeas and nays.
- (c) Each member of the board shall vote on each question before the board for determination, unless excused therefrom for reasons involving conflict of interest by the affirmative vote of at least three members of the ZBA. Members shall disqualify themselves from a vote in which the member has a conflict of interest.
- (d) *Alternate members.*
 - (1) Alternate members may be called on a rotating basis to sit in as regular members in the absence of a regular member.
 - (2) Alternate members of the board may actively participate in the discussions of the board, and may question petitioners as appropriate. Alternate members will not, however, be permitted to make motions or to vote unless they are a designated substitute for a regular member of the board who is absent or who has abstained from voting.
 - (3) An alternate member may also be called to serve as a member for purposes of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in that case until a final decision is made.
 - (4) The alternate member has the same voting rights as a regular member of the ZBA when designated as a substitute.

Sec. 153.1006. Powers of Board.

- (a) *Generally.* The ZBA shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this chapter. The powers of the ZBA include:
 - (1) *Appeal of administrative decisions.* To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or any other administrative official or body in carrying out or enforcing any provisions of this chapter.
 - (2) *Interpretation.* To hear requests for interpretation of the text of this chapter as well as the Zoning Map.
 - (3) *Variance.* To consider use variances and non-use variances.

(4) *Initiate amendment.* The ZBA may initiate an amendment to this chapter text or map as permitted in Sec. 153.1102.

(b) *Decisions.* For the powers of the ZBA listed in Sec. 153.1006(a), the ZBA may approve, approve with conditions, deny, or postpone a decision.

Sec. 153.1007. Applications.

(a) *Recipient.* The City Clerk shall be the recipient of all applications for the ZBA.

(b) *Deadline.* Any application for the ZBA must be received by the clerk at least 21 days prior to the next scheduled ZBA meeting.

(c) *Fee.* All applications shall be accompanied by the associated filing fee. Filing fees are not refundable except where an application was accepted in error or the fee paid exceeded the amount due.

(d) *Content.* Any application shall include, at a minimum, the type of review requested, a description of the proposed request, applicant contact information, as well as a plot or site plan.

Sec. 153.1008. Appeals.

(a) An appeal to the ZBA, based in whole or in part on the provisions of this chapter, may be initiated in response to any decision made by the Zoning Administrator or in response to any decision made by the Planning Commission. An appeal may be initiated by any person, firm, or corporation aggrieved by a decision, or by any governmental officer, department, board or bureau.

(b) Such appeal shall be taken by filing a notice of appeal with the City Clerk. Such appeal shall be made in writing on appropriate forms provided by the City Clerk, payment of the required fee, and shall specify the grounds for such appeal.

(c) The time from decision to an appeal being filed pertaining to that decision, will not exceed 30 days. This 30-day period begins the day the decision is made by the Zoning Administrator or Planning Commission.

(d) The City Clerk shall transmit all papers constituting such appeal to the board. The board may require the applicant to furnish such survey, plans or other information as may reasonably be required, to the board for the proper consideration of the matter. Upon a hearing before the ZBA, any person or party may appear in person, by agent, or by attorney.

(e) An appeal shall stay (continue) all proceedings in furtherance of the action appealed from unless the Building Inspector certifies to the ZBA that a stay (continue) would cause imminent peril to life or property. In this case the proceedings shall not be stayed unless the ZBA is required to take another action by a court order or similar legal action.

(f) *Standards of review.* The ZBA may reverse or affirm or modify a decision, wholly or partly, or the order of requirements that are being appealed. In reaching a decision on an appeal request, the ZBA must find that the decision meets one of the following criteria:

(1) The original decision was arbitrary or capricious.

(2) The original decision was based on an erroneous finding of a material fact.

(3) The original decision constituted an abuse of discretion.

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- (4) The original decision was based on erroneous interpretation of the City Zoning Ordinance or zoning state law.

Sec. 153.1009. Variances.

Each case before the ZBA shall be considered as an individual case. Variances reviewed by the ZBA are associated with the subject parcel, and (if approved) stay with the parcel through ownership changes. Each shall conform to the detailed application and to the following standards in a manner appropriate to the particular circumstances of such case:

- (1) *Use variances.* In order to approve a variance in the permitted use of land, the applicant must demonstrate unnecessary hardship. To demonstrate unnecessary hardship, the ZBA must find, by two-thirds of the members of the zoning board appeals, all the following standards to have been met:
 - a. The property cannot be put to a reasonable use as currently zoned.
 - b. The problem is due to unique circumstances peculiar to the property and not to general neighborhood conditions and enforcement of this chapter will create an unnecessary hardship.
 - c. The proposed use will not alter the essential character of the area.
 - d. The problem is not self-created.
 - e. The spirit of this chapter will be observed, public safety secured, and substantial justice done if the variance is approved.
- (2) *Non-use variances.* In order to approve a variance in requirements of this chapter relating to the construction, structural changes, or alterations of a building or a structure related to dimensional requirements of this chapter, or to any non-use related standard in the chapter, other than permitted use of the land, the applicant must demonstrate practical difficulty. To demonstrate practical difficulty, the ZBA must find that all the following standards have been met:
 - a. Strict enforcement of the provisions of this chapter would cause unnecessary hardship and deprive the owners of rights enjoyed by all other property owners within the same district.
 - b. There are conditions and circumstances unique to the property, such as an exceptional narrowness, shallowness, shape or area or topographic conditions, which are not similarly applicable to other properties in the same zoning district.
 - c. The conditions and circumstances unique to the property were not created by the owner or their predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.
 - d. The requested variance will not confer special privilege that is denied other properties similarly situated and in the same zoning district.
 - e. In addition to meeting the standards listed above, the requested variance will not be contrary to the spirit and intent of this chapter and will not be detrimental to the public good.

Sec. 153.1010. Interpretation.

- (a) The ZBA shall have the power to interpret the provisions of this chapter in such a way as to carry out the intent and purpose of this chapter. In case of any question as to location of any boundary line between zoning districts, the ZBA shall interpret the Zoning Map, after recommendation from the city Planning Commission. In interpreting the location of district boundaries, the ZBA shall use the rules of interpretation identified in Sec. 153.304. The ZBA shall also have the authority of interpreting whether or not a specific use is permitted within a specific zoning district. In carrying out this interpretation, the ZBA may not interpret a specific use as being included in a broader class of uses if that specific use is listed separately in other districts.
- (b) The authority to alter or change this chapter or the Zoning Map is reserved to the City Council, as is provided in this chapter.

Sec. 153.1011. Public Hearing.

Each application for a variance, appeal or interpretation shall require the ZBA to hold a public hearing on the application. Notice of the hearing shall be consistent with Sec. 153.1208 of this Ordinance and Public Act No. 110 of 2006 (MCL 125.3101 et seq.).

Sec. 153.1012. Conditions of Approval.

- (a) The ZBA may place conditions on an affirmative decision. See Sec. 153.1206(2).

Sec. 153.1013. Order; Validity; Limitation.

- (a) No order of the ZBA permitting the erection or alteration of buildings or other site features shall be valid for a period longer than one year unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is commenced and proceeds to completion in accordance with the terms of such permit and this chapter.
- (b) No order of the ZBA permitting a use of a building or premises shall be valid for a period longer than one year unless such use is established within such period; provided, such order shall continue in full force and effect if a building permit for such use, erection, or alteration is obtained within such period and such erections or alterations are commenced and proceed to completion in accordance with the terms of such permit.

Sec. 153.1014. Board Decision Final.

The decision of the ZBA shall be final. Appeals from decisions of the ZBA shall be made as required by section 605 of Public Act No. 110 of 2006 (MCL 125.3605).

Sec. 153.1015. Re-Submission of Application.

An applicant must wait one year from the date of a ZBA decision to re-submit an application, unless there has been a significant change in conditions as determined by the ZBA.

Sec. 153.1016. Performance Guarantees.

In order to ensure completion of improvements approved by the ZBA, the ZBA shall have the authority to require a performance guarantee as per the requirements of Sec. 153.608.

ARTICLE 11. AMENDMENTS⁷

Sec. 153.1101. Authority to Amend.

The City Council may, from time to time, amend the text or map of this chapter in accordance with the authority of Public Act No. 110 of 2006 (MCL 125.3101 et seq.) and as set forth in the Charter of the city.

The City Council may, following a public hearing and receipt of reports and recommendations from the Planning Commission or Zoning Board of Appeals, enact ordinances amending, supplementing, or changing the district boundaries or the regulations established in this chapter.

Sec. 153.1102. Initiating Amendments.

- (a) A proposal for an amendment to the text or Zoning Map may be initiated by:
 - (1) The City Council, by motion,
 - (2) The Planning Commission, by motion,
 - (3) Zoning Board of Appeals, by motion,
 - (4) By a resident of the city (for text amendments),
 - (5) A property owner, or person with written permission of the owner
- (b) For text amendments, an application must be completed with the proposed text change(s), and provided to the City Clerk 45 days prior to the next Planning Commission meeting and require payment of necessary fees.
- (c) For zoning amendments, an application must be completed of the proposed rezoning(s) and provide the City Clerk 45 days prior to the next Planning Commission meeting and required payment of necessary fees. Rezoning(s) may not be initiated by a resident. The application shall include:
 - (1) Current and proposed zoning.
 - (2) Legal description of property.
 - (3) Name, address and telephone number of owner and applicant.
 - (4) Copy of legal deed of ownership.
 - (5) A map at a scale of not less than 1 inch equal to 50 feet showing the subject parcel in relation to adjoining parcels of land.
- (d) Any proposal for an amendment to the Zoning Ordinance text or map may be initiated by the City Council, Planning Commission or ZBA, upon filing with the City Clerk a resolution duly adopted identifying the proposed amendment.

⁷State law reference(s)—Zoning adoption, MCL 125.3401 et seq.

Sec. 153.1103. Procedures for Amendments.

For text and map amendments, the procedures for notice and hearing shall be governed by Public Act No. 110 of 2006 (MCL 125.3101 et seq.). See ARTICLE 12 ADMINISTRATION AND ENFORCEMENT for public hearing procedures.

Sec. 153.1104. Standards of Review and Approval.

In reviewing any proposed amendment, the Planning Commission and City Council shall consider the following:

- (a) Standards of approval for a Zoning Map amendment (rezoning), the city shall find:
 - (1) The requested amendment is in compliance with the City Master Plan or that a mistake in the plan or changes in conditions or city policy have occurred that are relevant to the request. If the Planning Commission recommends approval of a request that is not in compliance with the current plan due to a mistake or change in conditions or policy, it shall immediately initiate an amendment to the plan to address the identified mistake or change.
 - (2) The property cannot be reasonably used as it is currently zoned and the proposed request represents the most suitable alternative zoning classification based on the City Master Plan.
- (b) Standards of approval for a proposed text amendment to the Zoning Ordinance, the city shall find:
 - (1) The change is necessary to clarify a provision of the ordinance.
 - (2) The change is necessary to correct a mistake in the ordinance.
 - (3) The change is necessary to implement a goal or policy of the City Master Plan; or
 - (4) The change is necessary to improve administration of the ordinance or to better serve the community.

Sec. 153.1105. Conditional Rezoning.

- (a) *Intent.* It is recognized that there are certain instances where it would be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning classification, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act (PA 110 of 2006)[1] by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.
- (b) *Application and offer of conditions.*
 - (1) An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
 - (2) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.
 - (3) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.

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- (4) Approval of a conditional rezoning does not guarantee approval of any special land use which may be required as part of the conditional rezoning project. Review of special land use must follow the procedures outlined in Sec. 153.1104 before development can begin.
 - (5) Approval of a conditional rezoning does not guarantee approval of any variance which may be required as part of the conditional rezoning project, and review of the variance must follow the procedures outlined in Sec. 153.1009 before development can begin.
 - (6) Approval of a conditional rezoning does not guarantee approval of any site plan which may be required as part of the conditional rezoning project, and review of the site plan must follow the procedures outlined in Sec. 153.603 before development can begin.
 - (7) The offer of conditions may be amended during the process of rezoning consideration, provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the City Council, provided that, if such withdrawal occurs after the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing and a new recommendation, with notice as required by this Article.
- (c) *Planning Commission review.* The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Sec. 153.1104 of this Zoning Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.
 - (d) *City Council review.* After receiving the Planning Commission's recommendation, the City Council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The City Council's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Sec. 153.1104 of this ordinance. Should the City Council propose amendments to the proposed conditional rezoning and amendments are acceptable to and offered by the owner, then the rezoning application shall be referred to the Planning Commission for a new public hearing and a new recommendation, with notice as required by this Article.
 - (e) *Approval.*
 - (1) If the City Council finds the owner's rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written statement of conditions, provided said conditions conform with this section. The statement of conditions shall be incorporated into the ordinance adopted by the City Council.
 - (2) The statement of conditions shall:
 - a. Be prepared as a notarized affidavit prepared and signed by the owner.
 - b. Contain a legal description of the land to which it pertains.
 - c. Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land unless otherwise specified by this section.
 - d. Include any diagram, plans or other documents submitted that are necessary to illustrate the implementation of the statement of conditions.

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- e. Contain the notarized signatures of all the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.
 - (3) Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a statement of conditions. The Zoning Map shall also include a listing of all lands rezoned with a statement of conditions.
 - (f) *Compliance with conditions.*
 - (1) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all the conditions set forth in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall be deemed a nuisance per se and shall constitute a violation of this Zoning Ordinance and be punishable accordingly.
 - (2) No permit or approval shall be granted under this chapter for any use or development that is contrary to an applicable statement of conditions.
 - (g) *Time period for establishing development or use.* Unless another time period is specified in the ordinance rezoning the subject land, the site plan for approved development shall be submitted within two years after the rezoning took effect. In cases where a site plan is not required, the approved use of land or buildings must have commenced within one year unless another time period is specified in the ordinance rezoning the subject land. These time limitations may upon written request be extended by the City Council if:
 - (1) It is demonstrated to the City Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and
 - (2) The City Council finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy. All applicable project completion deadlines in this chapter related to site plans, special land use and variances shall apply.
 - (h) *Reversion of zoning.* If approved development and/or use of the rezoned land does not occur within the time frame specified under Sec. 153.1105(g), then the land shall revert to its former zoning classification as set forth in Section 405(2) of PA 110.[2] The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests, see MCLA § 125.3405(2)
 - (i) *Subsequent rezoning of land.* When land that is rezoned with a statement of conditions is rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to Subsection (h) or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. If a statement of conditions has been recorded, upon the owner's written request, the City Clerk shall record with the Genesee County Register of Deeds a notice that the statement of conditions is no longer in effect.

(j) *Amendment of conditions.*

(1) During the time period for commencement of an approved development or use specified pursuant to Subsection (g) or during any extension granted by the City Council, the City Council shall not add to or alter the conditions in the statement of conditions.

(2) The statement of conditions may be amended in the same manner as was prescribed for the original rezoning and statement of conditions.

(k) *City right to rezone.* Nothing in the statement of conditions or in the provisions of this section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with this chapter and the Michigan Zoning Enabling Act, see MCLA § 125.3101 et seq.

(l) *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 an owner's rights under this chapter.

ARTICLE 12. ADMINISTRATION AND ENFORCEMENT

Sec. 153.1201. Duties and Powers.

Except where herein otherwise stated, the provisions of this chapter shall be administered and enforced by the following officials and bodies:

- (1) *Building inspection.* Building Inspector duties related to administration of the Zoning Ordinance include:
 - a. Grant certificates of occupancy permit.
 - b. Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this chapter.
 - c. Perform such other further functions necessary and proper to enforce and administer the provisions of this chapter.
 - d. Maintain a log of any significant issues or problems associated with the administration of this chapter.
 - e. Issue and serve municipal civil infraction citations for violations of this chapter. This duty may also be carried out by the code enforcement officer whose duties shall also include necessary inspections and such other functions as necessary and proper to enforce and administer provisions of this chapter.
- (2) *Zoning administration.* Zoning Administrator duties include:
 - a. Issue zoning permits.
 - b. Make inspections to determine compliance with zoning permits.
 - c. Respond to questions from citizens.
 - d. Receive, investigate and process all complaints and notify affected parties of the results of the investigation.
 - e. Act in an advisory capacity to the Planning Commission, ZBA and city manager.
 - f. Prepare reports to the Planning Commission, ZBA and city manager on zoning matters.
 - g. Maintain records of zoning permits, site plans, special use permits, and other applications and any changes to original applications.
 - h. Ensure project completion prior to refunding performance guarantees.
 - i. Determine if changes to a site plan are minor, as per Sec. 153.606.
 - j. Grant extensions for site plan approval, as per Sec. 153.607.
 - k. Maintain a log of any significant issues or problems associated with the administration of this chapter.
 - l. Issue special use permits after approval by the Planning Commission.

(3) *Planning Commission*. The Planning Commission shall have the power to:

- a. Approve and revoke approval of site plans.
- b. Approve and revoke approval of special use permits.
- c. Hold public hearings on amendments to this chapter.
- d. Initiate amendments to Zoning Ordinance text or map.
- e. Develop, update and adopt the City Master Plan.
- f. Make recommendations to the Zoning Board of Appeals for interpreting district boundaries.

(4) *City Council*. The City Council shall have the power to:

- a. Approve appointments of ZBA and Planning Commission members.
- b. Establish fees.
- c. Initiate amendments to the Zoning Ordinance text or map.
- d. Consider and enact amendments to Zoning Ordinance text and maps.

(5) *City Clerk*. The City Clerk shall have the power to:

- a. Publish public hearing notices for hearings by the Planning Commission, City Council and ZBA.
- b. Mail public hearing notices for hearings by the Planning Commission, City Council and ZBA.
- c. Keep meeting minutes and maintain a record of public meeting minutes.
- d. Receive applications and maintain records of zoning permits, site plans, special use permits, rezoning requests, and other applications.
- e. Maintain a record of all map and text amendments.
- f. Publish adopted Zoning Ordinance text or map amendments.
- g. Maintain a record of all ZBA variance decisions, interpretations, appeals, and any other decisions and motions made by the board.

(6) *Zoning Board of Appeals*. The Zoning Board of Appeals shall have the power to:

- a. Hear appeals of administrative decisions.
- b. Hear requests for interpretation of the text of this chapter as well as the Zoning Map.
- c. Consider use variances and non-use variances.
- d. Initiate an amendment to the Zoning Ordinance text or map as permitted in Sec. 153.1102.

Sec. 153.1202. Permits Required.

- (a) A zoning permit shall be required prior to changing the use of a parcel of land or building, commencing excavation for, or construction of any building or structure, addition to any existing building or structure, making structural changes, or making repairs to any existing non-conforming building or structure, moving an existing

building, any changes to parking lots or parking spaces not requiring site plan approval, or exterior changes to structures in the Downtown Overlay District.

- (b) A building permit shall be required prior to erecting, moving, repairing, altering, razing or changing the use of any building or structure, as specified herein and provided in the relevant building code adopted by the city.
- (c) A certificate of occupancy shall be required prior to the occupancy of any land, building or structure, as specified herein.

Sec. 153.1203. Zoning Permit.

- (a) It shall be unlawful for any person, firm or corporation to change the use of a parcel of land or building, commence excavation for, or construction of any building or structure, or addition to any existing building or structure, make structural changes, or make repairs to any existing non-conforming building or structure, or move an existing building, or make any exterior changes including painting to a building within the downtown overlay zoning district without first obtaining a zoning permit from the Zoning Administrator. No building permit shall be issued until an application has been submitted in accordance with the provisions of this chapter showing that the construction and/or use proposed is in compliance with the provisions of this chapter and other applicable codes and ordinances of the city.
- (b) The Zoning Administrator shall require that all applications for zoning permits be accompanied by plans and specifications including a plot plan, drawn to scale, showing the following:
 - (1) The actual shape, location, and dimension of the lot, drawn to scale.
 - (2) The shape, size, and location of all buildings or other structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
 - (3) Parking areas and driveways.
 - (4) Distances between all buildings and structures and setbacks distances from all buildings and structures to adjacent property lines.
 - (5) Such other information concerning the lot or adjoining lots, as may be essential for determining whether the provisions of this chapter are being observed; such as grade elevations.
- (c) One copy of the plans shall be returned to the applicant by the Zoning Administrator, after the Zoning Administrator has approved or denied the application. The second copy shall be retained in the office of the Zoning Administrator.
- (d) A zoning permit shall be approved if it meets the requirements of this chapter. A zoning permit for any exterior changes including painting within the downtown overlay zoning district shall meet the requirements in ARTICLE 15.
- (e) A zoning permit shall expire within one year from the date of approval unless the applicant receives a building permit for the project, or the Zoning Administrator verifies that the change authorized by the zoning permit has occurred.
- (f) Expired zoning permits cannot be renewed without being resubmitted.

Sec. 153.1204. Building Permit; Application.

- (a) Any improvements regulated by the State Construction Code as adopted by the City of Flushing (Chapter 150 of the City Code of Ordinances) shall comply with that code. Procedures for the review and approval of such improvements shall also comply with the State Construction Code.

Sec. 153.1205. Certificates of Zoning Compliance.

The Zoning Administrator may issue certificates of zoning compliance to confirm the status of buildings and uses relative to the Zoning Ordinance.

- (1) The Zoning Administrator shall inspect each development which requires a zoning permit, variance, site plan review, or special land use for final zoning compliance, prior to issuance of a certificate of occupancy by the Building Inspector. No certificate of occupancy pursuant to the building code of the city shall be issued for any building, structure, or part thereof, or for the use of any land, which is not in accordance with all the provisions of this chapter.
- (2) Certificates of zoning compliance will be issued for existing buildings, structures, or parts thereof, or existing uses of land, if, after review of the ordinance and zoning records, the status of the buildings, site, uses, and other aspects of the property are determined to be in, compliance with the Zoning Ordinance by the Zoning Administrator.
- (3) A record of all certificates issued shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.
- (4) Buildings accessory to dwellings shall not require separate certificates of zoning compliance for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.

Sec. 153.1206. Conditions

- (1) The Planning Commission may impose conditions on site plan reviews and special land uses deemed necessary for ensuring that the intent and objectives of this chapter will be observed. Conditions imposed shall meet the following standards:
 - a. Expedite the approval of the site plan by the Planning Commission and not require the developer to return to the Planning Commission with revised plans.
 - b. Be designed to protect natural resources, the health safety and welfare, as well as the social and economic wellbeing of those who will use the land use or activity under consideration, residents and land owners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - c. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in this chapter for the land use or activity under consideration; and be necessary to assure compliance with these standards.
 - d. Be related to the valid exercise of police power and purposes which are affected by the proposed use or activity.

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- e. In determining appropriate conditions, the Planning Commission shall ensure that:
 - 1. There is a rough proportionality between the cost to the developer to provide an improvement in relationship to the impact to be mitigated; and
 - 2. There is a reasonable connection between the condition imposed and the impact it is mitigating.
 - (2) The Zoning Board of Appeals may impose conditions on any affirmative decision when such conditions:
 - a. Would ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
 - b. Would protect the natural environment and conserve natural resources and energy.
 - c. Would ensure compatibility with adjacent uses of land.
 - d. Would promote the use of land in a socially and economically desirable manner.
 - e. In determining appropriate conditions, the ZBA shall ensure that:
 - 1. There is a rough proportionality between the cost to the developer to provide an improvement in relationship to the impact being mitigated.
 - 2. There is a reasonable connection between the condition imposed and the impact it is mitigating.
 - (3) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon an action of the Planning Commission. The Zoning Administrator shall maintain a record of changes granted in conditions. The breach of any condition, safeguard, or requirement shall, as determined by the Planning Commission following a public hearing, invalidate the permit granted.

Sec. 153.1207. Penalties.

Any person or firm convicted of violating any provisions of this chapter shall be subject to the penalties provided for in the city municipal civil infractions ordinance.

Sec. 153.1208. Public Hearing Procedure

The body charged with conducting a public hearing required by this Ordinance shall, upon receipt of a completed application, select a reasonable time and place for such hearing. Such hearings shall be held in accordance with the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, and the following:

- (1) *Special use and variance requests.*
 - a. Publication in a newspaper of general circulation. Notice of the request shall be published in a newspaper of general circulation not less than 15 days before the date the application will be considered for approval.
 - b. *Personal and mailed notice.*
 - 1. Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.
 - 2. Notice shall be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property, including the owners or

occupants of structures located in adjacent cities or townships. If the name of the occupant is not known, the term “occupant” may be used in making notification.

3. All notices delivered by mail or personal delivery must be given not less than 15 days before the date of the public hearing. Notice shall be deemed mailed by its postmark.

(2) *Content of notice.* Any notice published in a newspaper or delivered by mail or personal delivery shall:

- a. Indicate the public body conducting the hearing and deciding on the matter.
- b. Indicate the nature of the matter to be considered at the public hearing.
- c. Indicate the land that is the subject of the request.
- d. Include a listing of all existing street addresses within the property. If no such addresses exist, other means of identifying the property may be used.
- e. Date, time, and place of the public hearing.
- f. A statement of where and when written comments will be received concerning the request.

(3) *Zoning Ordinance text and map amendments.*

- a. *Map amendments affecting 10 or fewer parcels.* If the proposed map amendment is for an individual parcel or 10 or fewer parcels, notice shall be given as specified in Sec. 153.1208(1)a and b.
- b. *Map amendments affecting 11 or more parcels.* If the proposed map amendment is for 11 or more parcels, notice shall be given as specified in Sec. 153.1208(1)a, with the exception that the notice need not list street addresses of properties that will be included by the map amendment.
- c. *Text amendments.* A text amendment notice shall be given as specified in this section.

(4) *Rights of all persons.* Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney. Documentary evidence may be submitted for consideration, provided that the hearing body shall exclude such evidence deemed irrelevant, immaterial or unduly repetitious.

(5) *Adjournment.* The body conducting the hearing may at any time, on its own motion or at the request of the applicant or applicant agent, adjourn the hearing to a reasonable and fixed future date, time, and place for the purpose of giving further notice, accumulating further evidence or information or for such other reasons that the body finds to be sufficient. Notice shall be provided of the adjourned hearing date, time, and place per Sec. 153.1208(1)a.

ARTICLE 13. CONDOMINIUMS⁸

Sec. 153.1301. Intent.

The intent of this Article is to regulate the division and development of land under the condominium act, Public Act No. 59 of 1978 (MCL 559.101 et seq.) so that the development is comparable in quality of design to property divided and developed by other methods. All condominiums must conform to the State of Michigan Act 59 of 1978, as amended.

Sec. 153.1302. Review Requirements.

In order to ensure compliance with this chapter, all condominium developments shall go through the site plan review process, including developments consisting solely of single-family or duplex residences, that may otherwise not be required to prepare a site plan. In addition to the information required in ARTICLE 6 of this chapter, all applicants for condominium site plan review shall submit the following information for Planning Commission review:

- (1) A draft of the proposed condominium master deed.
- (2) A copy of the proposed condominium subdivision plan. (This may replace the site plan required for site plan review.)
- (3) A draft of the proposed condominium by-laws.

Sec. 153.1303. Zoning Ordinance Standards.

Zoning Ordinance lot size and setback requirements are applied differently when considering a conventional condominium versus a site condominium.

- (a) *Lot size.* In conventional condominium development, the condominium unit is enclosed air space, such as condominium apartments. In a conventional condominium, the entire site must meet the minimum lot size requirements for the zoning district in which the parcel is located. For site condominium developments, the condominium unit is a piece of land that is sold as a building site just as lots in a subdivision are sold. Each condominium unit in a site condominium and its associated limited common area are considered equivalent to a "lot" and must meet the minimum lot size requirements for the zoning district in which the parcel is located.
- (b) *Setbacks.* In conventional condominium development, the buildings must be setback from the site boundaries as required in the zoning district where the parcel is located. For site condominium developments, the setbacks shall be from the outer edge of the "lot" consisting of a condominium unit and their associated limited common area, and shall be consistent with the setbacks for principal structures in the zoning district in which it is located.

⁸State law reference(s)—Condominium Act, MCL 559.101 et seq.

Figure 153.15.1

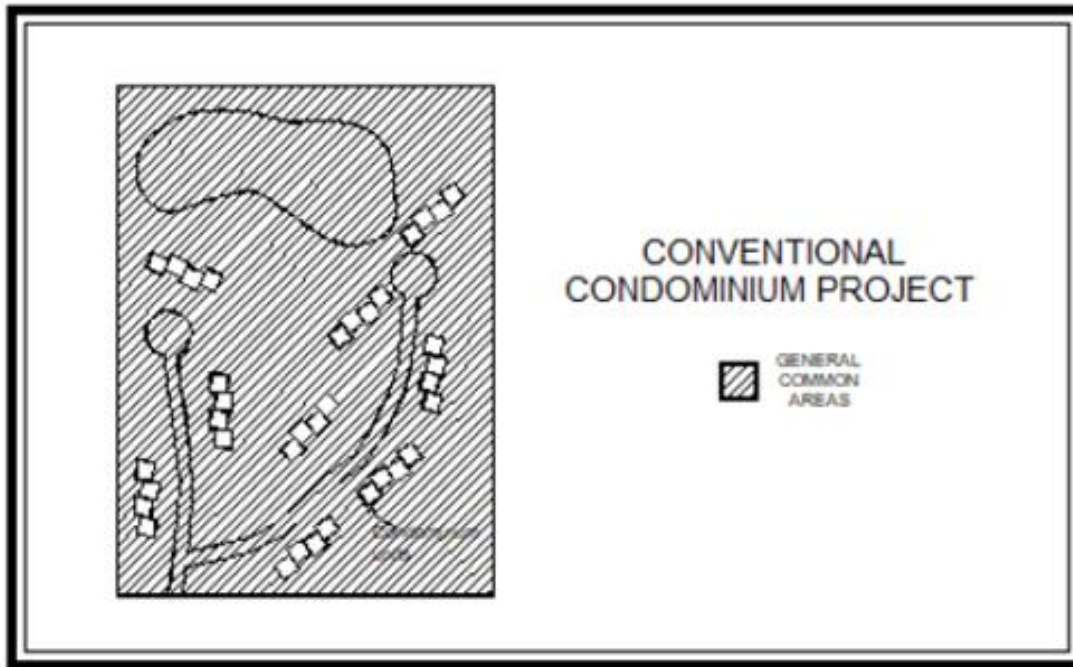
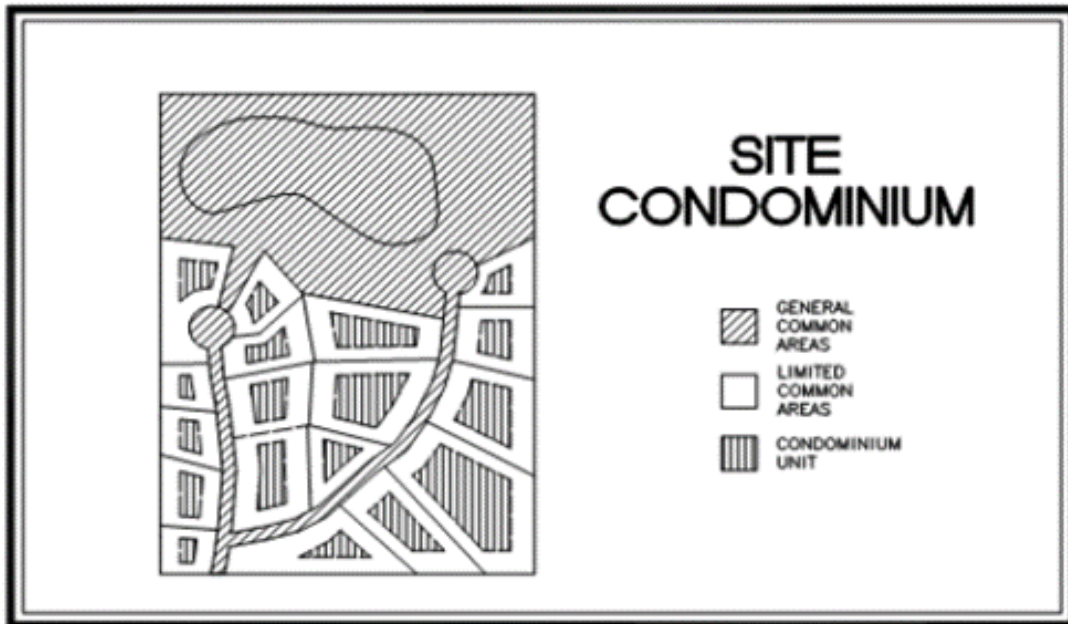


Figure 153.15.2



Sec. 153.1304. Survey Requirements.

Conventional and site condominium developments shall comply with the site plan review design requirements of ARTICLE 15. In addition, the site condominiums shall comply with the design standards contained in other City of Flushing Ordinances, and by the Genesee County Drain Commissioner, the Genesee County Health Department and

the appropriate departments of the State of Michigan. The Planning Commission may apply the procedures and standards set forth in ARTICLE 14 in the review and approval of condominium projects.

Conventional condominiums shall comply with the monumenting requirements contained in the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.). Site condominium shall comply with the following requirements which are intended to ensure that monumentation is equivalent to the monumentation requirements of a subdivision plat:

- (1) Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the subdivision if the angles points can be readily reestablished by reference to monuments along the sidelines of the streets.
- (2) All monuments used shall be made of solid iron or steel at least ½-inch in diameter and 36 inches long and completely encased in concrete at least 4 inches in diameter.
- (3) Monuments shall be located in the ground at all angles in the boundaries of the site condominium; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the site condominium and at the intersection of alleys with the boundaries of the site condominium; at the points of curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.
- (4) If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impractical, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plat and referenced to the true point.
- (5) If a point required to be monumented is on a bedrock outcropping, a steel rod, at least ½-inch in diameter shall be drilled and grouted into solid rock to a depth of at least 8 inches.
- (6) All required monuments shall be placed flush with the ground where practicable.
- (7) The corner of each area consisting of a unit and the associated limited common area reserved for that unit, and treated as a "lot" under this chapter shall be monumented in the field by iron or steel bars or iron pipes at least 18 inches long and ½-inch diameter, or other markers approved by the city.
- (8) The Planning Commission may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on condition the proprietor deposits with the city cash, certified check, or irrevocable bank letter of credit payable to the city, whichever the proprietor selects, in an amount not less than \$250.00 per monument and not less than \$1,000.00 in total, except that lot corner markers shall be at the rate of not less than \$50.00 per marker. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed within the time specified as required. If the proprietor defaults, the city shall promptly require a surveyor to locate the monuments and markers as certified on the plat, as required by this chapter. The city shall be reimbursed for the cost of such work by the proprietor's deposits. Additionally, in the event the city incurs costs in excess of the amount deposited, such costs will be charged against the proprietor.

Sec. 153.1305. Recorded Master Deed and Final Engineering Approval.

- (a) Following site plan approval, an application for final engineering approval shall be submitted to the Planning Commission which shall include plans and information in sufficient detail for the city to determine compliance with all applicable laws, codes, ordinances, rules and regulations for the construction of the project.
- (b) Prior to the issuance of building permits for units, the developer shall demonstrate final approval by county and state entities having jurisdiction with regard to any aspect of the development, including, without limitation, roads, water supply and sewage disposal.
- (c) A building permit for construction of a unit on a building site shall be issuable at such time as final engineering plans have been approved by the Planning Commission, all applicable permits and approvals have been secured from other governmental entities, and all improvements for the project have been constructed. The City Council may determine that certain improvements need not be constructed prior to issuance of building permits for units on building sites on the condition that all improvements will be completed prior to issuance of a certificate of occupancy and the developer posts a performance bond to cover the cost of such improvements, as determined appropriate by the Planning Commission, following advice of the city engineer, for the timely completion of such improvements.
- (d) Prior to issuance of a building permit, the applicant shall provide the city with a copy of the recorded master deed, including the site plan at a size not to exceed 11 inches by 17 inches. The Zoning Administrator shall review these documents to ensure that they comply with the approval granted by the Planning Commission.

Sec. 153.1306. Amendment to Master Deed.

Any proposed amendment of a master deed which would involve any subject matter reviewed or reviewable under this Article shall be reviewed and approved by the Planning Commission prior to recordation.

ARTICLE 14. SITE CONDOMINIUM PROJECTS⁹

Sec. 153.1401. Intent.

The intent of this chapter is to regulate the division and development of land under the Condominium Act (PA 59 of 1978) so that the development is comparable in quality of design to property divided and developed by other methods.

Sec. 153.1402. Definitions.

- (a) *General definitions.* The following definitions shall apply in the construction and application of this chapter, and are defined both in the context of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.), and in a manner intended to make comparison possible between the terms of this chapter and the subdivision regulations within the Condominium Act:

Building envelope means the ground area occupied, or to be occupied by, the principal structure which is, or is intended to be, placed on a building site, together with any attached accessory structures, e.g., house and attached garage.

Building site means the condominium unit, including the building envelope and the contiguous limited common area or element under and surrounding the building envelope, and shall be the counterpart of "lot" as used in connection with a project developed under the Land Division Act, Public Act No. 288 of 1967 (MCL 560.101 et seq.).

Conceptual plan is a map or graphic representation of the proposed subdivision submitted for purposes of introduction and initial feedback.

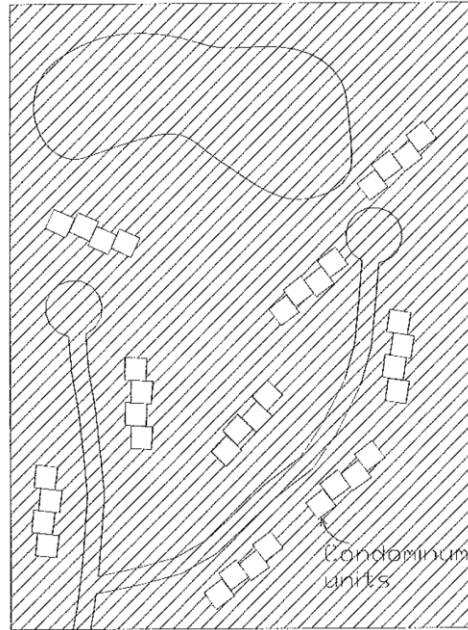
Condominium general common elements are portions of the condominium development owned and maintained by the condominium association, as defined in the Condominium Act (PA 59 of 1978).

Condominium limited general common elements are portions of the condominium development other than the condominium unit itself reserved for the exclusive use of less than all the co-owners of the condominium development, as defined in the Condominium Act (PA 59 of 1978).

Condominium master deed is the condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and including those items required in Section 8 of the Condominium Act (PA 59 of 1978).

Condominium project, conventional means a development in which ownership interest is divided under the authority of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.), and in which the condominium unit consists primarily of the dwelling or other principal structure and most of the land in the development is part of the general common area.

⁹State law reference(s)—Condominium act, MCL 559.101 et seq.

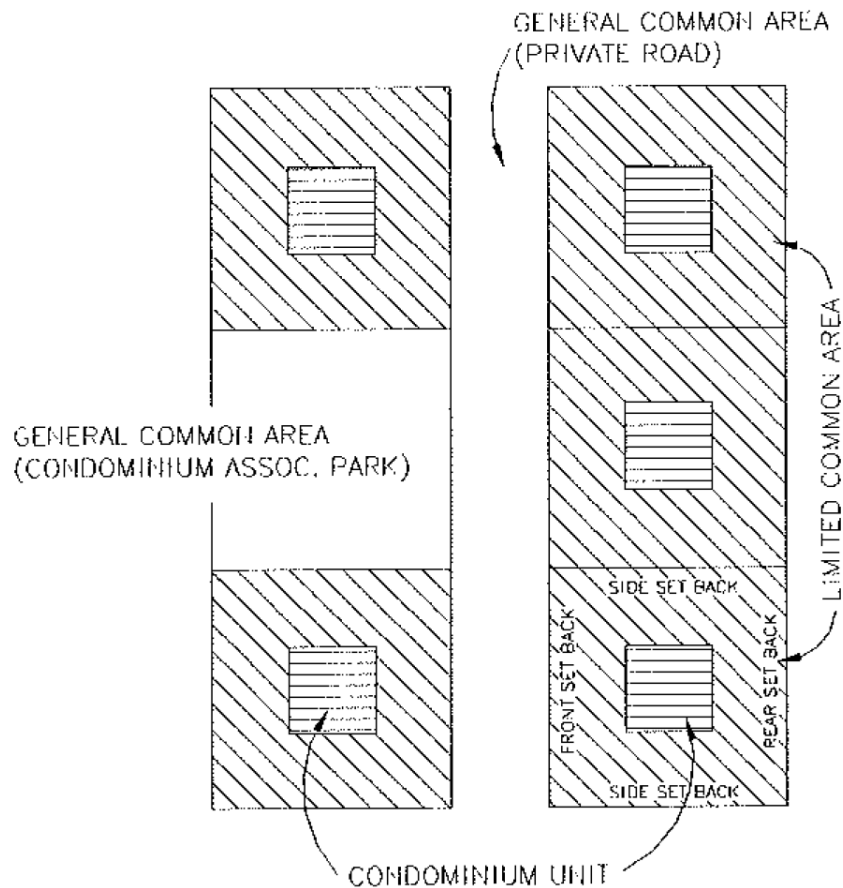


CONVENTIONAL CONDOMINIUM

 GENERAL
COMMON
AREAS

Condominium project, site means a development in which ownership interest is divided under the authority of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.), and in which the condominium unit consists of a building site, with or without structures, which along the associated limited common elements, constitutes the equivalent of a lot.

SITE CONDOMINIUM DEFINITIONS



CONDOMINIUM UNIT + LIMITED COMMON AREA = LOT

Subdivision regulations means and refers to the subdivision regulations provisions codified as chapter 152, incorporated as part of this section by reference. In construing the subdivision regulations and any other relevant ordinances, reference to principal building or structure shall be construed as being the "building envelope" and reference to lot or parcel shall be construed as being the "building site."

(b) *Other definitions.* All defined terms under the condominium act shall have their same meanings in this chapter.

Sec. 153.1403. Lot Splits.

Lots in a recorded condominium shall not be further partitioned or divided unless in conformity with all requirements of the Zoning Ordinance, and provided further, that any partitioning or dividing shall not be in conflict with Act 59, Public Acts of 1978, and shall be approved by resolution of the City Council. No zoning or building permit shall be sought nor shall any construction be commenced prior to approval of the lot split by the City Council.

Sec. 153.1404. Approval Process.

Approval under this section shall be required as a condition to the right to construct, expand or convert a site condominium project in the city. The approval process shall involve three phases:

- (1) Initial investigation.
- (2) Concept plan approval.
- (3) Preliminary approval.
- (4) Final plan approval.

Sec. 153.1405. Initial Investigation.

(a) *Initial investigation.*

- (1) It is suggested that the proprietor meet informally with city staff to investigate the municipality's procedures and standards regarding this Condominium Ordinance.
- (2) The proprietor should concern himself/herself with the following factors:
 - a. The proprietor shall secure a copy of the Zoning Ordinance, Condominium Ordinance, City Design and Infrastructure Standards and other similar ordinances or controls relative to the subdivision and improvement of land to make himself/herself aware of the requirements of the City of Flushing.
 - b. The averaged lot size, open space plan, or cluster housing option provisions outlined in ARTICLE 4, SCHEDULE OF REGULATIONS, may be applicable to certain types of conventional and/or site condominium developments.
 - c. The area of the proposed condominium development shall be properly zoned for the intended use.
 - d. The relationship of the proposed condominium development with respect to the major thoroughfares and plans for widening of thoroughfares shall be investigated by the proprietor.
 - e. Standards for sewage disposal, water supply and drainage of the municipality shall be investigated by the proprietor.

(b) Review procedures for conventional condominiums.

- (1) Following any initial investigations, the applicant for a conventional condominium development would follow the site plan review process as outlined in Zoning Ordinance.
- (2) After final site plan approval, the applicant shall comply with the provisions of this Article.

Sec. 153.1406. Concept Plan Review.

The proprietor may, prior to preliminary site plan submittal, present a conceptual representation of the entire proposed site condominium development to the city for information and feedback. The Planning Commission is not required to vote to approve or deny, but may give the proprietor preliminary recommendations on the proposed

site condominium. Recommendations at this stage are meant to provide direction and shall not infer approval at later stages.

- (a) The following items shall be included on a conceptual site plan at a scale of not more than one inch to 200 feet:
- (1) Lot sizes and lot dimensions.
 - (2) Street layout.
 - (3) Zoning of the property within the enclosed plat.
 - (4) Proprietor's name and address.
 - (5) Property boundary.
 - (6) Adjacent property and land use.
 - (7) Location map.
 - (8) Proposed phases.
 - (9) Existing natural features (wooded areas, floodplain, wetlands, open water, streams, etc.).
 - (10) Existing easements.
 - (11) General proposed utility information.
 - (12) Topographic survey plan (show existing ground contour lines) for the site and 100 feet beyond the property line. Contour lines are to be shown every 2 feet.
 - (13) All existing driveways and streets within 100 feet of the site.
 - (14) Plan shall otherwise comply with City of Flushing Design Standards and City Construction Specifications.
- (b) The proprietor shall submit three (3) copies and an electronic copy to the city manager. The Planning Commission shall consider the proposed site condominium at the first Planning Commission meeting that is held at least 30 days after submission to the city manager.

Sec. 153.1407. Preliminary Site Plan Approval.

The purpose of this step is to provide the proprietor with preliminary city approval prior to proprietor producing construction drawings and obtaining construction permits. All information required for final approval shall be provided at this step, with the exception of the construction drawings and construction permits.

- (a) Information required on the site condominium plan submitted for tentative approval, at a scale not more than 1 inch to 200 feet:
- (1) All information required for conceptual plan review, as listed in this Article.
 - (2) Survey of property and legal description.
 - (3) Name of the proposed development.
 - (4) Name, address, and phone number of proprietor and surveyor or engineer that prepared the plat.
 - (5) Location map of site condominium, including section and range.

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- (6) Utility layout, including connections to existing systems, pipe sizes, fire hydrant locations, sufficient sanitary and storm sewer inverts to ensure adequate depth, storm detention/retention areas, storm sewer outlets and any proposed utility easements. Drainage calculations are not required at this stage.
 - (7) Names of abutting subdivisions or site condominiums.
 - (8) Street names, right-of-way, right-of-way widths, and typical road cross sections.
 - (9) Proposed drainage shall be indicated by drainage arrows; drainage arrows should be sufficient to show preliminary drainage directions of the entire development.
 - (10) Provide complete language for the master deed, including the condominium by-laws.
 - (11) Indicate all 100-year floodplain areas.
 - (12) Indicate any wetland areas that are regulated by the Michigan Environment Great Lake and Energy (formerly Michigan Department of Environmental Quality).
 - (13) Required zoning setbacks.
 - (14) Date and north arrow.
 - (15) All parcels of land proposed to be dedicated to public use and conditions of such dedication.
 - (16) Topographic survey plan (show existing ground contour lines) for the site and 100 feet beyond the property line. Contour lines are to be shown every 2 feet.
 - (17) Plan shall otherwise comply with City of Flushing Design Standards and City Construction Specifications.
- (b) The proprietor shall submit three (3) copies and an electronic copy of the site condominium plan to the city manager at least 30 days prior to the next Planning Commission meeting. Upon receipt, the city manager shall submit copies to members of the City Planning Commission and shall make one copy available to each appropriate city department, which shall review the site condominium plan and provide written comments to the Planning Commission at least two weeks prior to the next meeting.
 - (c) Planning Commission preliminary review of site condominium plan.
 - (1) Before making a recommendation on the site condominium plan, the Planning Commission shall hold a public hearing, notice of which shall contain the date and place of hearing, and shall be sent by certified mail to the proprietor and taxpayers of record of land immediately adjacent to the proposed site condominium, at least seven days prior to the hearing date.
 - (2) The site condominium plan and any required accompanying data shall be reviewed by the Planning Commission for the purpose of checking its compliance with the Master Plan, Zoning, the City Design and Infrastructure Standards, other applicable city ordinances, and other specifications of this chapter, all in accord with sound engineering practice.
 - (3) The Planning Commission shall submit a written recommendation on the site condominium plan to the City Council. The Planning Commission shall either:
 - a. Recommend preliminary approval of the site condominium plan; or
 - b. Set forth reasons for not recommending preliminary approval and the requirements for preliminary approval.

(d) City Council preliminary review of site condominium plan.

- (1) The site condominium plan and any required accompanying data, and written comments from reviewers, shall be reviewed by the City Council for the purpose of checking its compliance with the Master Plan, Zoning, the City Design and Infrastructure Standards, other applicable city ordinances, and other specifications of this Article, all in accord with sound engineering practice.
- (2) The City Council shall determine the preliminary approval of the site condominium plan within 90 days of filing of the site condominium plan with the city manager. The City Council shall either:
 - a. Approve the preliminary site condominium plan; or
 - b. Deny the site condominium plan, setting forth reasons for not approving the site condominium plan and the requirements for preliminary approval.
- (3) City Council approval shall be good for a period of one year. The approval may be renewed for an additional one-year period upon application by the proprietor and approval by the City Council.

Sec. 153.1408. Final Site Plan Approval.

This is the final approval stage prior to the proprietor constructing any proposed infrastructure.

- (a) The proprietor shall file with the City Council the following, in compliance with the requirements of the Condominium Act, and any other requirements stipulated in this chapter.
 - (1) Approvals from:
 - a. City and County Road Commission (if the proposed site condominium includes or abuts roads under the Road Commission's jurisdiction).
 - b. Genessee County Drain Commissioner.
 - c. Michigan Department of Transportation (if the proposed site condominium includes or abuts a state highway, or includes streets or roads that connect with a state highway).
 - d. Michigan Department of Environment Great Lakes and Energy (Michigan Department of Environmental Quality) (if the land proposed to be developed abuts a wetland, floodplain, lake or stream).
 - (2) Proof that the proprietor has notified all public utilities in the city of the application by certified mail (including the local telephone, gas, electric and cable company).
 - (3) An electronic copy, and five (5) blueprint copies of the site condominium plan submitted for final approval containing all the information required for preliminary approval (the electronic copy shall be retained by the city).
 - (4) Documentary evidence sufficient to allow the city to ascertain whether all the proper persons have signed the proprietor's certificate, including a current commitment or policy of title insurance (or equivalent) written by a company licensed to issue title insurance policies in Michigan.
 - (5) Proof of city engineer's approval of construction plans. Plans to be prepared and submitted as directed in this Article.
 - (6) An agreement with the city consisting of a master deed restriction upon the site condominium whereby the Building Inspector will not be permitted to issue a building permit for any structure upon any lot within said

site condominium until the improvements as specified herein have been completed, or satisfactory arrangements have been made with the city for the completion of said improvements. These master deed restrictions shall be made a part of all deeds or contracts for any unit within the site condominium.

- (7) The proposed master deed, including by-laws, shall be submitted. Such restrictions shall not be in contradiction to those of the Zoning Ordinance or any other ordinance of the city. These restrictions shall become a part of the final recorded site condominium and shall be recorded along with the site condominium in the Office of the Genessee County Register of Deeds.
- (b) City Council final approval of site condominium plan.
 - (1) The City Council shall make a determination on the site condominium plan at its next regularly scheduled meeting, or within 20 days of the date of submission. The City Council shall either:
 - a. Give final approval to the site condominium plan; or
 - b. Set forth reasons for not approving the site condominium plan and the requirements for final approval.
 - (2) Final approval of the site condominium plan by City Council shall be valid for a period of two years. The approval may be renewed for an additional one-year period upon application by the proprietor and approval by the City Council.

Sec. 153.1409. Construction Approval.

- (1) The proprietor may not record the condominium master deed and begin taking reservations on the proposed units until the City Council has granted final approval of the condominium plan, and one of the following has occurred:
 - a. *The proprietor has installed all improvements.* The proprietor shall submit as-built engineering drawings, as required by this chapter, and said drawings shall have been checked and approved for compliance with requirements contained in this chapter, in the City of Flushing ARTICLE 15 DESIGN STANDARDS and Construction Specifications or standards adopted by other agencies with authority to approve site condominium improvements. The city may also require on-site construction observation by the city or its representatives with costs paid for by the proprietor.
 - b. The proprietor may, at the City Council's option, provide a bond, cash, certified check or bank letter of credit in the amount of the cost of installation of all improvements as a performance guarantee. The performance guarantee shall accrue to the city, and shall be in an amount equal to the total estimated cost for completing construction of the specific public improvement, including contingencies, based on an estimate by the city engineer. The term length for which the performance guarantee is in force shall be for a period to be specified by the City Council. If the performance guarantee is in the form of a bond, it shall be with a surety company authorized to do business in the State of Michigan and acceptable to the City Council. The performance guarantee shall not be released to the proprietor until the proprietor has submitted as-built engineering drawings of the constructed improvements, as required by this chapter, and said drawings have been checked and approved for compliance with requirements contained in this chapter, in the City of Flushing Design Standards and Construction Specifications or standards adopted by other agencies with authority to approve site condominium improvements. The city may also require on-site construction observation of such improvements by the city or its representatives with costs paid for by the proprietor.

(2) Prior to the final acceptance by the municipality of improvements, a two-year maintenance bond in an amount set by the City Council shall be posted by the proprietor.

(3) *City Council approval.*

- a. Upon receipt of verification of approval of the requirements above, the City Council shall take action upon said condominium plan in accordance with the requirements of the Condominium Act, Municipal Charter and requirements of this chapter. In case of disapproval, the reasons for such action shall, by written communication, be transmitted to the proprietor who shall, within a reasonable time, resubmit to the City Council any changes or alterations stipulated in the Council's action of disapproval.
- b. Upon approval the proprietor may, in accordance with the Condominium Act and any other applicable requirements, file said plan, master deed, bylaws and other required information with the Office of the County Register of Deeds.

Sec. 153.1410. Construction Plans.

- (a) No proprietor proposing to develop a condominium within the territorial limits to which these regulations are applicable shall record the condominium plan or enter into any contract for the sale of or shall offer to sell said condominium or any part thereof until construction approval has been obtained and the proprietor has completed construction of all improvements or has posted a performance guarantee with the city for the cost of the improvements. The proprietor shall not proceed with any construction work on the proposed condominium until the proprietor has obtained from the city the final approval of the condominium plan, and the city has verified that all outside agency permits have been obtained; except grading, which may commence upon approval of the proprietor's grading plan. The city may further require a preconstruction meeting prior to allowing commencement of site work.
- (b) It shall be the responsibility of the proprietor of every proposed condominium to have prepared by a professional engineer registered in the State of Michigan, a complete set of construction plans, including profiles and cross-sections of each street with grades; profile of proposed sanitary and storm sewer with sizes and grades; a plan of water lines with sizes and appurtenances, and specifications and other supporting data for the required streets, utilities and other facilities. Such construction plans shall be based on plans which had received preliminary approval. Construction plans are subject to approval by the responsible public agencies. All construction plans shall be prepared in accordance with the standards or specifications contained in the City Design and Infrastructure Standards and the City Construction Specifications, and three sets and one electronic copy shall be submitted to the City Planning Department for review and approval.
- (c) Upon completion of the construction of all required streets, utilities and other facilities, as-built drawings shall be prepared at the proprietor's expense by a professional engineer registered in the State of Michigan and submitted to the city.

Sec. 153.1411. Topsoil.

Removal of topsoil from areas to be developed shall be prohibited except in those areas to be occupied by buildings, roads or parking areas. A plan for storage or stockpiling of topsoil shall be submitted by the proprietor with the final site plan and shall be approved prior to receiving final approval.

Sec. 153.1412. Completion of Improvements.

- (a) Prior to the undertaking of any improvements, the proprietor shall deposit with the City Clerk cash, a certified check, or irrevocable bank letter or credit, whichever the city selects, or a surety bond acceptable to the City Council, to ensure faithful completion of all improvements within the time specified. The amount of the deposit shall be set by the City Council based on an estimate of the city engineer. The City Council shall release funds for the payment of work as it is completed and approved by the municipality.
- (b) Prior to the acceptance by the municipality of improvements, a two-year maintenance bond in an amount set by the City Council shall be posted by the proprietor. Improvements shall be provided by the proprietor in accordance with the standards and requirements established in this section and/or any other such standards and requirements which may, from time to time, be established by ordinance or published rules of the city.

Sec. 153.1413. Compliance Standards.

The approvals required under the provisions of this chapter shall be obtained prior to the installation of any condominium or project improvements within the city, in public streets, public alleys, public rights-of-way and public easements, and/or under the ultimate jurisdiction of the city. All condominium or project improvements within the city installed in public streets, public alleys, public rights-of-ways or public easements, and/or under the ultimate jurisdiction of the city, shall comply with all the provisions and requirements of this or any other related ordinance.

Sec. 153.1414. Construal of Provisions.

The provisions of this chapter shall be held to be the minimum requirements adopted for the promotion and preservation of public health, safety, and general welfare of the city. This chapter is not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of the city, nor conflict with any statutes of the State of Michigan or Genesee County, except that this chapter shall prevail in cases where this chapter imposes a greater restriction than is provided by existing statutes, laws, or regulations.

Sec. 153.1415. Review Fees.

The City Council shall establish a fee schedule for the review of all applications included in this chapter. This fee schedule may be amended by the City Council, as required.

Sec. 153.1416. Violations and Penalties.

Violation of this chapter shall be a misdemeanor which is punishable by imprisonment for not more than 90 days, or a maximum fine of \$500, or both.

Sec. 153.1417. Variations from Standards.

- (a) In cases where variances from the dimensional standards of the Zoning Ordinance, are deemed necessary, said variances shall be granted by the Zoning Board of Appeals subject to the procedures and standards outlined in ZONING BOARD OF APPEALS ARTICLE 10.
- (b) Waivers from standards contained in the City of Flushing Condominium Ordinance may be granted by the City Council following a recommendation(s) by the Planning Commission. The Planning Commission shall consider input from the appropriate public authority(ies) in making its recommendation.
 - (1) In making its findings, the Planning Commission shall consider the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons proposed to reside or work in the subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. The Planning

Commission shall include its findings and the specific reasons therefore in a report of recommendations to the City Council and shall also record its reasons and actions in the minutes.

- (2) The Planning Commission shall only recommend waivers that it deems necessary or desirable for the public interest. No waiver shall be recommended unless the Planning Commission finds the following:
- a. That there are such special circumstances or conditions affecting said property that the strict application of the provisions of this chapter would clearly be impractical or unreasonable. In such cases, the proprietor shall first state their reasons in writing as to the specific provision or requirement involved and submit them to the Planning Commission.
 - b. That the granting of the specific waiver will not be detrimental to the public welfare or injurious to other property in the immediate area.
 - c. That such waiver will not violate the provisions of the Condominium Act.
 - d. That such waiver will not have the effect of nullifying the interest and purpose of this chapter and the Master Plan of the City of Flushing.
- (c) Application for any waiver or variance shall be submitted in writing by the proprietor at the time the preliminary plan is filed, stating fully and clearly all facts relied upon by the proprietor and shall be supplemented with maps, plans, or other additional data which may aid in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan.

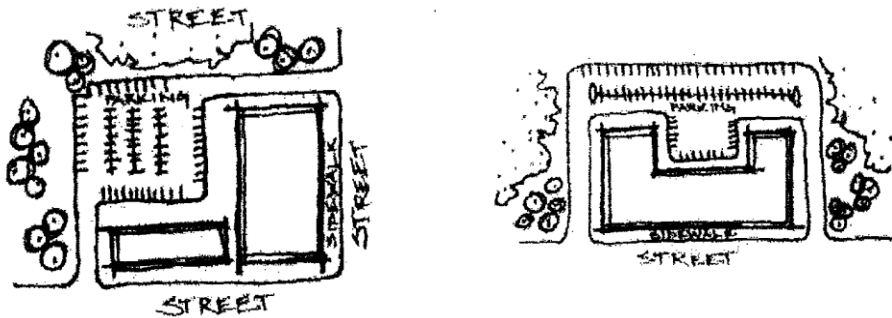
ARTICLE 15. DESIGN STANDARDS

Sec. 153.1501. Design Guidelines.

- (a) The purpose of these design guidelines is to provide direction to property owners, developers, city staff and the City Planning Commission in the development and redevelopment of property in the city. It is intended to be applied to projects that require site plan review under this chapter.
- (b) Front yard setbacks should match neighboring buildings. New construction should not be set back significantly from the surrounding buildings. This can create a gap in the "building wall" formed by the row of buildings fronting a street. If a building is set closer than neighboring buildings, care should be taken that it does not obscure these nearby structures.
- (c) Building scale to be similar to neighboring buildings. Scale refers to the relative size of a building as it relates to neighboring buildings. The size and proportions of new development should be related to the scale of nearby buildings. Even if much larger than its neighbors in terms of square footage, the building should maintain the same scale and rhythm as the existing buildings.
- (d) An appropriate building scale can be created with a variety of design elements. The proportion of windows and doors, building massing and other architectural details can all help maintain the human quality and scale of buildings.

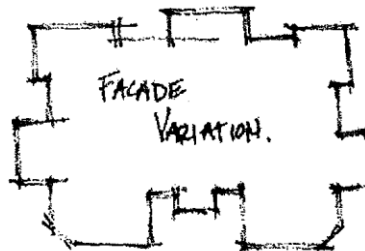
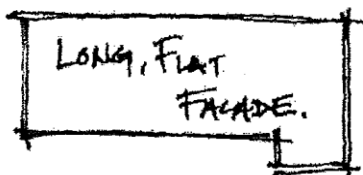
Sec. 153.1502. Parking Location and Size.

- (a) A large expanse of parking lot area in front of buildings should be avoided. Break the parking lot into two or more smaller lots where possible. This can be done by the use of landscaping or other methods.
- (b) Parking lots should be located in the rear or side of the lot when appropriate.

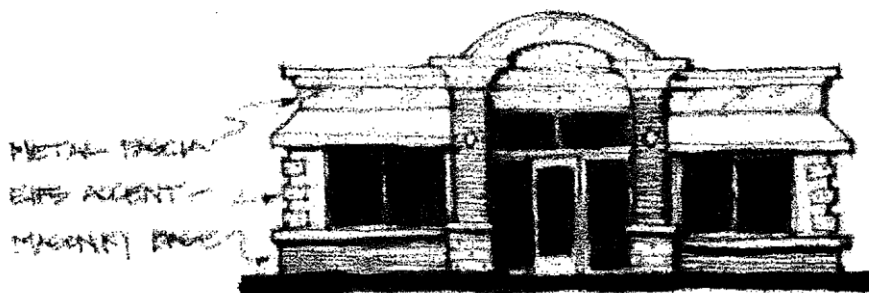


- (c) Use of "typical" (rectangular, low pitched roofed, metal sided) pre-engineered building systems should be discouraged.
- (d) Efforts should be made to enhance building design of the "typical" building type. This can include the use of a greater amount of brick or similar material versus steel and incorporation of variations in roof pitch.

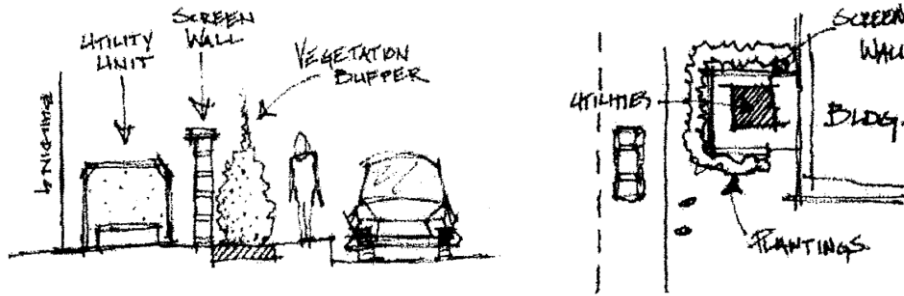
- (e) Facades should be articulated and include architectural detail to provide visual interest and variety on the façade, including variation in depth of the building plane, materials and/or height of a structure that breaks up a plain, monotonous area and creates patterns of light. Articulation should be to a fine grain in relation to the size of the building (i.e., a single bump out of a long facade is not consistent with this standard).



- (f) Existing buildings to be adapted for re-use should be modified as required to be compatible with new use.
- (g) When buildings are reused, structures or other features related to the previous use, but inconsistent with the current use should be removed or modified to fit the current use. Examples could include gas station canopies and pumps and drive-through lanes and windows.
- (h) Less durable and/or high maintenance materials should be limited to trims and details.
- (i) Use of wood, synthetic stucco (commonly referred to as EIFS or "exterior insulating finish system") or similar material should not be used as the primary siding material but may be used as an accent material to provide interest and contrast.



- (j) Screen mechanical units and utilities from view.
- (k) Efforts should be made to locate mechanical units such as HVAC units and electrical transformers so that they are not visible from adjacent property per Sec. 153.122. If the mechanical unit cannot be located so that it is not visible, it should be screened to obscure it.



Sec. 153.1503. Downtown Design Guidelines.

- (a) The front of the building shall be no more than 5 feet from the lot line.
- (b) First floors to have a translucent storefront, spanning from pier to pier, consisting of doors, windows and transoms; clear or lightly tinted glazing; 20-foot to 30-foot-wide bays.
- (c) Existing recessed entrance doors shall not be modified so that they are flush with the exterior wall. Existing flush entrance doors that are replaced shall be replaced with recessed entrance doors where historically appropriate.
- (d) The exterior materials and colors used shall be historically appropriate. If they appear to be inconsistent with the color and materials used by surrounding buildings, then the recommendation of an architect selected by the city shall be requested.
 - (a) Cornice band over storefronts.
 - (b) Stories above first floor to have "punched" window openings.
 - (c) Facades are to be typically masonry.
 - (d) Roof line should be varied when possible.
 - (e) The use of awnings is encouraged.
 - (f) Signage to be located on awning or sign board over storefront.

Sec. 153.1504. Architectural Compatible 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 declines and upgrade building quality.
 - (2) Promoting the renovation of existing buildings and neighborhoods 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-single-family residential buildings and structures, including upper level residential in any district:

(1) *Materials and colors.*

a. The following exterior finish materials shall be required for walls visible from streets or an adjacent residential district:

1. Primary materials must be used to compose a minimum of 75 percent of wall area of the building base and 50 percent of wall area for the upper floors.
2. Secondary materials are allowed to compose a maximum of 25 percent of wall area in the building base and 50 percent of wall area for the upper floors.
3. The exterior finish materials shall consist of no more than four unique materials, excluding architectural detail, accent, or trim; and balconies and railings. A change in color, pattern, or profile shall constitute a unique material.

MATERIAL	BUILDING TYPE					
	Commercial, Mixed Use, Institutional		Multi-Family Residential		Industrial	
	Primary	Secondary	Primary	Secondary	Primary	Secondary
Masonry - Brick (natural, glazed, painted) - Stone (natural, synthetic) - Terra Cotta	x	x	x	x	x	x
Concrete - Cast-in-Place - Precast	x	x			x	x
Siding - Wood (natural, composite) - Fiber Cement Board (e.g. Hardie Panel)		x	x	x		
Stucco (upper floors only) - traditional cementitious - synthetic EIFS				x		
Architectural Metal Panel - insulated metal panel - composite metal panel		x		x	x	x

(e) In addition to the permitted primary and secondary materials, materials that may be used for architectural details, accent, or trim (not to exceed ten percent of the wall area) include:

- (1) Glass reinforced fiber cement.
- (2) Molded polyurethane.
- (3) Glass block.
- (4) Metal.
- (5) Wood.

-
- (f) Concrete masonry units (ground face, split face, burnished face) are permitted for basement or foundation walls only and should not be visible above the floor line of the ground floor.
 - (g) The following exterior finish materials shall be prohibited: vinyl siding; T1-11 and other plywood siding materials; porcelain or ceramic tile; sheet metal or corrugated metal.
 - (h) Building materials shall be durable, weather-resistant, rustproof, and kept in good condition to always meet the building code by the property owner or tenant.
 - (i) 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.
 - (j) Balconies, railings and porch structures shall be metal, wood, glass, cast concrete or stone.
 - (k) Storefront systems shall be primed and painted, or factory-finished (anodized, powder-coated, clear coated, plated, or polished).
 - (l) Structural elements that support signage shall be primed and painted, or factory-finished (anodized, powder-coated, clear coated, plated, or polished) and be complimentary to the selected storefront finish.