

# CHAPTER 155: ZONING CODE

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## **GENERAL PROVISIONS**

### **§ 155.001 PURPOSE.**

(A) The purpose of this chapter is to establish minimum requirements for the promotion of public health, safety, morals, and general welfare. Other provisions are intended to provide for adequate light, air, and convenient access; to allow safety from fire and other dangers; to encourage the wise use of lands and other natural resources, within the jurisdiction, in accordance with their character, adaptability, and suitability for particular purposes; to ensure social and economic stability, property values and the general character and trends of community development and to ensure adequate population concentrations by regulating and limiting the height and bulk of erected structures.

(B) It is also the purpose of this chapter to adopt provisions for each designated zoning district that specifies the location, size, construction, and/or use of structures and open spaces, and safety and sanitary requirements within each district.

(Ord. passed 8-27-90)

### **§ 155.002 INTERPRETATION OF CHAPTER.**

When interpretation is necessary because the permissions of this chapter, in respect to the listed permitted principal and accessory uses, are not or cannot be made either comprehensive nor precise enough to all applications of this chapter, the

Planning Commission, City Council, or Zoning Board of Appeals shall be permitted to interpret the intent of this chapter, noting those interpretation for future reference.

(Ord. passed 8-27-90)

## **§ 155.003 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ACCESSORY BUILDING.** A subordinate building or structure on the same lot with the main building, or a portion of the main building, occupied or devoted exclusively to an accessory use. When an accessory building is attached to the main building in a substantial manner by a wall or roof, it shall be considered part of the main building.

**ACCESSORY USE.** A use subordinate to the main use on a lot and used for purposes customarily incidental to those of the main building; but not including their use for dwelling, residential, lodging, or sleeping quarters for human beings.

**ALLEY.** Any indicated public way, other than a street, providing a secondary means of access to property.

**BASEMENT.** A story having part, but no more than 75% of its height below the average level of the adjoining ground. A **BASEMENT** is counted as a story for the purposes of height regulations if subdivided and used for business or dwelling purposes. (See **CELLAR**).

**BOARDING HOUSE.** A dwelling having one kitchen and used for the purposes of providing meals, lodging, or both for pay or compensation of any kind, computed by the day, week, month, or year to persons other than family members occupying those dwellings.

**BUILDING.** Any structure having a roof supported by columns or walls, used or intended to be used for shelter or enclosure of persons, animals/or property. When that structure is divided into separate parts by one or more unpicked walls, each part is deemed a separate building.

**BUILDING (HEIGHT OF).** The vertical measurement from the average elevation of the finished lot grade at the front of the building, to the highest point of the ceiling of the top story, in the case of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and the ridge of a gable, hip or gambrel roof.

**BUILDING PERMIT.** A written authority issued by the Building Inspector in conformity with the provisions of the B.O.C.A. Code.

**CARPORT.** Any structure or portion of a building or structure, other than an attached or detached garage, used for the shelter of self-propelled vehicles.

**COMMERCIAL.** A business operated primarily for-profit or nonprofit, including those of retail trade and professional, personal, technical, and mechanical services.

**CELLAR.** A story having greater than 75% of its height below the average level of the adjoining ground and not having any part thereof used for dwelling purposes. A **CELLAR** shall not be counted as a story for purposes of height measurement.

**CONDITIONAL USE PERMIT.** A permit issued by the Planning Commission to an applicant not in accordance with the provisions of this chapter, but which use will not be detrimental to the surrounding area, along with being required to meet and maintain certain predefined criteria. The permit must be approved and issued by the Planning Commission prior to the issuance of a building permit by the Building Inspector.

**COURT.** An unopened space, other than a yard, that is bounded on at least two sides by a building. A **COURT** not extending to a street, front yard, or rear yard is an outer court.

**DWELLING.** Any building, or portion thereof, which is designated or used exclusively as living quarters for families, but not including recreational vehicles, tents, portable buildings, or basements:

1. **MULTIPLE-FAMILY.** A building or portion thereof used or designated as a residence for two or more families living independently of each other, but not including hotels or motels.

2. **ONE-FAMILY.** A detached building designed for occupancy by one family.

**ESSENTIAL SERVICES.** The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems; collection, communication, supply, or disposal system, including towers, poles, wires, call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith.

**FAMILY.** One or two persons, or parents, with their direct descendants and adopted children (and including the domestic employees thereof) together with. Not more than three persons not so related, living together in a room or rooms comprising a single housekeeping unit. Every additional group of two or more persons living in such housekeeping unit shall be considered a separate family for the purposes of this chapter.

**FARMS.** The keeping of horses, swine, cattle, sheep, goats, chickens, geese, ducks, turkeys, rabbits, and other domestic animals other than house pets, shall be permitted in connection with the farm use as an accessory use of one-family residence established and existing on the premises where those animals, poultry or birds are to be kept.

**FENCE.** Any partition, structure, hedge, or gate used as a dividing marker, barrier, or enclosure.

**FRONTAGE.** All property on one side of a street between intersecting and intercepting streets, or between a street and railroad right-of-way, waterway, end of a dead-end street, or city boundary measure along the street line. An intercepting street

shall determine only the boundary of the frontage on the side of the street which it intercepts.

**GARAGE.**

1. **PRIVATE.** A detached accessory building or portion of the main building for the parking or temporary storage of not more than three automobiles, including not more than one truck of rated capacity not exceeding one ton, and having a maximum gross floor area of 1,200 square feet.

2. **PUBLIC.** A space or structure other than a private garage for the storage, care, repair, refinishing, or servicing of motor vehicles. However, a structure or room used slowly for the display and sale of those vehicles, in which they are not operated under their own power, and in connection with which there is no storage, repair, care, refinishing, or servicing of vehicles other than those displayed for sale, shall not be considered a public garage.

**GROSS FLOOR AREA.** The area within the exterior walls of a building.

**HOME OCCUPATION.** Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

**INDUSTRIAL.** A business operated primarily for-profit or nonprofit, including those of product manufacturing or conversion through the assembly of new or used products, or through the disposal or reclamation of salvaged materials, and including those businesses and service activities that are normal integral parts of an industrial enterprise.

**JUNK.** Any motor vehicle, machinery, appliances, product, or merchandise with parts missing, or scrap metals or other scrap which cannot be used for the purpose for which the product was manufactured.

**JUNK YARD.** An area of more than 200 square feet, unless entirely within an enclosed building, used for storage, keeping, or abandonment of junk, including scrap metals, other scrap metals, or reclaimed materials, or for the dismantling, demolition, or abandonment of automobiles or other vehicles, machinery or parts thereof.

**LIVING SPACE.** The area within a structure intended, designed, erected, or used for human occupancy, but excluding any cellar or accessory use areas.

**LOT.** A parcel of land shown on a subdivision map, a record of survey map, or a parcel described by metes and bounds, having an area for each main building as hereinafter in each zone.

**LOT LINE.**

1. **AREA.** The total area within the lot lines of a lot.

2. **CORNER LOT.** A lot situated at the intersection of two or more streets having an angle of intersection of not more than 135 degrees.



3. **DEPTH.** The distance between the front and rear lot lines, measured in the average direction of the side lot lines.

4. **FRONT.** In case of an interior lot, a line separating the lot from the street or place; and in case of a corner lot, a line separating the narrowest street frontage of a lot from the street.

5. **INTERIOR LOT.** A lot other than a corner lot.

6. **REAR.** A lot line which is opposite and most distant from the front line and, in the case of an irregular shaped lot, a line at least ten feet in length within the lot, parallel to and at maximum distance from the front lot line.

7. **SIDE.** Any boundary line not a front or rear lot line.

8. **WIDTH.** The distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

**NONCONFORMING STRUCTURE.** A structure lawfully existing at time of adoption of this chapter, or any amendments thereto, which does not conform to the regulations of the district in which it has been located, and for which a certificate of occupancy has been issued and is in force.

**NONCONFORMING USE.** A use which lawfully occupies a structure or land at the time of the adoption of this chapter, or any amendments there, which does not conform with the regulations of the district in which it is located, and for which certificate of occupancy has been issued and is in force.

**NUISANCE.** An offensive, annoying, unpleasant, or obnoxious thing or practice, a course or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of a use of activity across a property line, which can be perceived by or affects a human being or his/her property adversely.

**OFF-STREET PARKING.** Applies to vehicles parking in all areas, except parking in garages and parking along streets or alleys.

**RECREATIONAL VEHICLE (RV).** A vehicular type structure, primarily used as temporary living quarters for recreation, camping, or travel use, which has either its own motive power or is mounted on or drawn by another vehicle which is self-propelled. An RV is not a travel trailer or coach or a manufactured (mobile) home.

**SITE PLAN REVIEW.** A process conducted by the Planning Commission for the purpose of reviewing all plans for proposed developments in the city, except for single-family homes on single lots or parcels for the purpose of assuring compliance of all permitted uses with the provisions of this chapter.

**SPECIAL CARE FACILITY.** Any dwelling unit intended to be occupied (partially or entirely) for purposes of providing residential care for persons physically or mentally handicapped, mentally ill, drug or alcohol addicts and including any dwelling units used for similar occupants that are state-licensed or state-supported, but not including penal or correctional institutions, nor shall the conditions apply to any family related persons living within a single-family unit.

**STORY.** The portion of a building between one-floor level and the floor level; next above it, or between the uppermost floor and the roof. Any story lying more than 50% by volume below the highest level of the adjoining ground, and any mezzanine, balcony, or similar story having a floor area or less than 50% of the floor area immediately above it, (or where there is no story above, less than 50% of the floor area immediately below it) shall not be counted as a story in measuring the height of buildings under this chapter.

**STORY (HALF).** An uppermost story lying under a sloping roof, the usable floor area of which does not exceed 75% of the floor area of the story immediately below it, and not used, designed, arranged, or intended to be used, in whole or in part, as an independent housekeeping unit or dwelling.

**STREET.** A dedicated and accepted public right-of-way for vehicular traffic, which is the primary means of access to abutting property.

**STRUCTURE.** Anything constructed or erected which requires location on the ground or attached to something having a location on the ground, including fences, signs, or billboards.

**TRAILER COACH/MANUFACTURED (MOBILE) HOMES.** A structure transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities and includes plumbing, heating, air-conditioning, and electrical systems contained in the structure. **MANUFACTURED (MOBILE) HOMES** do not include recreational vehicles (RVs).

**USE.** The purpose for which land or buildings are arranged, designated, or intended, or for which either land or buildings are, or may be, occupied or maintained.

**YARD.** An open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter:

1. **FRONT.** A yard extending across the full width of a lot; the depth of which is the distance between the front lot line (street right-of-way) and the main wall of the building.

2. **REAR.** A yard extending across the full width of a lot between the most rear of the main building and the rear lot line. The depth of the required rear yard shall be measured from the nearest point of the main building to the nearest part of the side lot line. The first two feet of rood overhanging shall be excluded in determining the nearest part of the main building.

3. **SIDE.** A yard, between the main building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured from the nearest point of the main building to the nearest part of the side lot line. The first two feet of rood overhang shall be excluded in determining the nearest part of the main building.

**ZONING VARIANCE.** A variance from the strict application of the provisions of this zoning code, with as strict as possible adherence to the intent and purpose of the equal application of the law principle as is possible and additionally those variations

specified in this chapter which can be granted by the Zoning Board of Appeals due to an unnecessary hardship (a variation of permitted use) or practical difficulties (a variation from a required dimensional or performance standard) due to unusual lot shape or size, or on-site natural characteristics as compared with other similarity zoned parcels in the district which it is located.

(Ord. passed 8-27-90)

## **§ 155.004 ESTABLISHMENT OF ZONE DISTRICTS.**

For the purpose of this chapter, the city is hereby divided into eight classes of zone districts, known as:

- (A) R-1 Single-Family Residential
- (B) R-2 Multi-Family Residential
- (C) R-3 Rural Residential
- (D) C-1 Neighborhood Commercial
- (E) C-2 Downtown/Highway Commercial
- (F) I Industrial
- (G) O Open Lands
- (H) P.U.D. Planned Unit Development

(Ord. passed 8-27-90)

## **§ 155.005 INTERPRETATION OF DISTRICT BOUNDARIES; ZONING MAP.**

The boundaries of those districts set forth in 155.003 are hereby established as shown on the map entitled "The Zoning Map of the City of Wakefield, Michigan, 1990," as amended, which accompanies and is made part of this chapter. Except where referenced on the map to a street line or other designated line by dimensions shown on the map, the district boundary lines follow lot lines or the center of streets or alleys as they existed at the time of the enactment of this chapter, but where a district line does not coincide with those lot lines or street or alley center lines, or where it is not designated by dimensions, it shall be deemed to be 40 feet back from the center of the nearest parallel street.

(Ord. passed 8-27-90)

## ***R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT***

### **§ 155.015 PURPOSE.**

The purpose of the regulation covering this District are to provide a stable and sound family residential environment with its appropriately related level of urban utilities, facilities, and services. The essential difference between this and any other Residential District is that a moderate density of urban-type residential development will be permitted through the construction and occupancy of one-family structures on moderately sized lot areas. There is no intent to promote by these regulations for R-1 Districts any lower quality livability than that possible in any other Residential District. All developed or undeveloped lots shall be seeded with grass, except by permission of the Planning Commission.

(Ord. passed 8-27-90)

### **§ 155.016 PERMITTED USES.**

One-family residences, churches, schools, parks, and accessory structures thereof, and providing, except for lots of record, if public water supply and public storm drainage systems are available or constructed, that appropriate connections are made thereto. Signs and billboards are prohibited in any R-1 District.

(Ord. passed 8-27-90) Penalty, see § 155.999

### **§ 155.017 ACCESSORY BUILDINGS.**

(A) Accessory buildings are permitted, but not prior to erection of the principal buildings.

(B) Accessory buildings shall not occupy more than 40% of rear yard, nor closer to any lot line than is required for this district.

(C) An accessory building, in addition to the principal garage, is permitted but may not exceed 200 square feet.

(D) No part of any front yard shall be used for any attached accessory building or garage, nor for the permanent parking of vehicles.

(Ord. Passed 8-27-90) Penalty, see § 155.999

### **§ 155.018 DIMENSIONAL REQUIREMENTS.**

(A) The minimum dimensions set forth in this section for lot area, width, and floor area, together with the maximum dimensions for lot coverage and building heights, shall be required for every structure and land use in this District, except as noted.

(B) Minimum lot area. No lots, except as otherwise established for specifically permitted uses, shall hereafter be subdivided to provide less than 5,600 square feet of lot area.

(C) Minimum lot width. Forty feet along a street upon which a lot fronts.

(D) Maximum lot coverage. All buildings, including accessory buildings, shall not cover more than 40 % of the total lot area.

(E) Maximum building height. Two stories, but not to exceed 35 feet. Accessory buildings shall not exceed a height of 15 feet.

(F) Minimum finished living space. Minimum gross living space area per family shall not be less than 850 square feet of floor area on the first floor if one story or 650 square feet of floor area on the first floor if two stories, but not less than 350 square feet of floor area on the second-floor level, or a total of not less than 1,000 square feet of floor area, if a split-level single-family dwelling.

(G) Minimum yard dimensions.

(1) Front yard: 30 feet minimum setback from the street.

(2) Side yard: five feet minimum for both interior and corner lots.

(3) Rear yard: Not less than 30 feet.

(4) Minimum lot depth: 140 feet.

(H) Parking restrictions. Parking of motor or recreational vehicles with greater than one ton carrying capacity, boats, or trailers shall be permitted to park in side and rear yard only.

(Ord. passed 8-27-90) Penalty, see § 155.999

## ***R-2 MULTI-FAMILY RESIDENTIAL DISTRICT***

### **§ 155.030 PURPOSE.**

The purpose of the regulations covering this District are to provide a stable and sound family residential environment with the highest type of neighborhood-related urban utilities, facilities, and services. The essential difference between this and other residential Districts is that a relatively high density of urban-type residential developments will be permitted in a variety of multi-family dwelling structures on relatively small area per dwelling unit. There is no lower quality of livability than that possible in any other Residential District. All developed or undeveloped lots shall be seeded with grass, except by permission of the Planning Commission.

(Ord. passed 8-27-90)

## § 155.031 PERMITTED USES.

Duplex and multi-family dwellings, churches, schools, and parks, and accessory structures thereof, and providing public water supply and public storm and sanitary drainage systems are available or constructed, that appropriate connections are made thereto. Signs and billboards are prohibited in any R-2 District, except by the issuance of a conditional use permit by the Planning Commission.

(Ord. passed 8-27-90) Penalty, see § 155.999

## § 155.032 DIMENSIONAL REQUIREMENTS.

(A) The minimum dimensions set forth in this section for lot area and width, the floor area, together with maximum dimensions for lot coverage and building heights shall be required for every structure and land use in this District, except as noted.

(B) Minimum lot area. For multiple-family dwellings, minimum lot areas are as follows:

(1) Lot size requirements for:

<i>Family Dwellings</i>	<i>Square Feet Per Family</i>
2	7,500
3-4	6,000
5-6	5,000
7	4,500

(2) The term **DWELLING UNIT STRUCTURE**, as used herein, shall be interpreted to include all of the dwelling units on a use parcel, which may, in order to accomplish a more desirable development, actually be contained in a number of physically separate, though functionally related buildings.

(C) Minimum lot width. Eight feet for the first two dwelling units, and an additional 20 feet for each additional dwelling unit, up to and including structures containing four dwelling units, and an additional ten feet for each dwelling unit thereafter along the street upon which a lot fronts; with exceptions to be allowed for lots on curvilinear streets producing nonparallel side lot lines.

(D) Maximum building height. No structure shall exceed two stories of 35 feet.

(E) Accessory buildings shall not exceed a height of 15 feet.

(F) Minimum living space. Minimum gross floor living space area per family shall not be less than 750 square feet of floor area.

(G) Maximum lot coverage. All buildings, including accessory buildings, shall not cover more than 40% of the total lot area.

(H) Minimum yard dimensions for single structures containing two or more dwelling units are as follows:

(1) Front yard: Front yard setbacks shall be at least 25 feet.

(2) Side yards: Side yard setbacks shall be no less than ten feet.

(3) Rear yards: Rear yards shall be no less than 20 feet.

(I) Minimum specifications for group housing developments.

(1) Between principal buildings on the same lot or parcel. Front-to-front, rear-to-rear, or front-to-rear, the minimum horizontal distance shall be 50 feet for buildings on story in height. This distance shall be increased by not less than ten feet for every story added. The minimum distance between buildings may be increased on one side by not more than ten feet if the distance on the other side is proportionately increased. If the buildings are staggered so as to permit free movement of air and allow ample sunlight to reach the ground, modifications may be permitted by the Planning Commission, if the planned development compensates by other space provisions.

(2) Between the end of buildings. The distance shall not be less than 20 feet when neither building exceeds two stories and 30 feet if one or both buildings exceeds two stories. When the end of one building is opposite the long dimensions of an adjacent building, the minimum distance shall be 30 feet if both buildings are one story and 40 feet if at least one building is two or more stories.

(3) Courts. The width of any court shall be at 1½ times the height of the highest building adjacent to that court.

(4) Play areas. Play areas suitable for preschool children must be provided in all group housing developments. They shall be preferably located within sight of the dwelling units they serve. A minimum area of 40 square feet per dwelling unit shall be provided.

(5) Site plan review. In addition to all previous requirements of this section, all group housing projects must meet the requirements of §§ 155.245 through 155.262 unless waived by a quorum majority of the Planning Commission.

(J) Parking restrictions. Parking of motor or recreational vehicles with greater than one ton carrying capacity, boats, or trailers shall be permitted to park in designated parking spaces only.

(K) Off-street parking and loading and unloading requirements. Must meet the requirements of §§ 155.175 through 155.198.

(L) Snow storage. On-site snow storage shall be provided for in the amount of 10% of the total required parking space. This storage amount shall be in addition to the required parking space.

(Ord. passed 8-27-90) Penalty, see § 155.999

## ***R-3 RURAL RESIDENTIAL DISTRICT***

### **§ 155.045 PURPOSE.**

The purpose of this District is to provide for very low-density one-family residences while preserving the rural character of the District. There is no lower quality of livability than that possible in any other Residential District. All developed or undeveloped lots shall be seeded with grass, except by permission of the Planning Commission.

(Ord. passed 8-27-90)

### **§ 155.046 PRINCIPLE USES.**

Single-family residences and farms; multi-family dwellings and limited commercial also permitted with site plan review and approval. Signs and billboards are prohibited in any R-3 District, except by the issuance of a conditional use permit by the Planning Commission.

(Ord. passed 8-27-90) Penalty, see § 155.999

### **§ 155.047 REQUIRED CONDITIONS.**

(A) Municipal sanitary sewer and water service will not be provided.

(B) Sanitary sewer and water provisions are subject to approval by the County Health Department.

(Ord. passed 8-27-90)

### **§ 155.048 HEIGHT AND AREA.**

(A) Maximum height. Two stories, but not to exceed a height of 35 feet.

(B) Front yard. There shall be a front yard of at least 50 feet in depth.

(C) Side yard. There shall be two side yards, each of which will be at least 20 feet in depth.

(D) Rear yard. There shall be a rear yard of at least 50 feet in depth.

(E) Lot area. The minimum lot area shall be 108,900 square feet (2 ½) acres and the minimum front lot line shall be 100 feet in length.

(F) Floor area. There shall be a minimum floor area of 850 square feet.



(Ord. passed 8-27-90) Penalty, see § 155.999

### **§ 155.049 ACCESSORY USES.**

No accessory building, including garages, shall be erected in any required front yard, shall not exceed 35 feet in height, and shall be at least 20 feet from the side lot lines and 50 feet from the rear lot line.

(Ord. passed 8-27-90) Penalty, see § 155.999

### **§ 155.050 USES SUBJECT TO SPECIAL CONDITIONS.**

(A) An accessory building to be used as a private stable, barn, chicken coop, or similar type building shall be no less than 100 feet from any lot line.

(B) The animals, poultry, or birds shall be confined in a suitable fenced area, paddock, or building.

(C) Stables, barns, or other similar accessory buildings shall be kept clean and manure shall be treated and handled in a manner as to control odor and flies and shall be screened from view.

(D) All confinement areas, stables, barns, and other similar accessory buildings shall, in all instances, be located in the rear yard.

(Ord. passed 8-27-90) Penalty, see § 155.999

## ***C-1 NEIGHBORHOOD COMMERCIAL DISTRICT***

### **§ 155.060 PURPOSE.**

The purpose of this District is to accommodate those retail sales and service facilities that are considered to be an indispensable function of residential neighborhoods. Commercial activities for Neighborhood Commercial are those which primarily offer goods and services which generally are required by the family on a daily or less than weekly basis. In view of this primary purpose, it is important that the neighborhood shopping developments be built around family, food, household, and automotive services. All developed and undeveloped lots shall be seeded with grass, except by permission of the Planning Commission.

(Ord. passed 8-27-90)

### **§ 155.061 PERMITTED USES.**

The following types of commercial activities may be permitted:

(A) Establishments selling all kinds of foodstuffs for consumption off-premises, including those which produce or manufacture foodstuffs exclusively for sale on the premises; however, no slaughtering or killing of poultry or animals shall be permitted.

(B) Services such as dry cleaning agencies, self-service laundries, shoe repair shops, beauty parlors, and barbershops.

(C) Drug stores and apparel shops.

(D) Lunch counters, dairy bars, restaurants without dancing, entertainment, and alcoholic beverages, but excluding drive-in eating establishments.

(E) Offices for neighborhood-related personal and business services.

(Ord. passed 8-27-90)

## **§ 155.062 DIMENSIONAL REQUIREMENTS.**

The following dimensions shall be as follows, except where noted:

(A) Minimum lot area: 5,600 square feet.

(B) Minimum lot width: 40 feet.

(C) Required yards:

(1) Front yard. The minimum front yard setback shall be 30 feet.

(2) Side yard. The minimum side yard setback shall be five feet.

(3) Rear yard. The minimum rear yard setback shall be 30 feet.

(D) Maximum building height. Two stories, but not to exceed 35 feet.

(E) Lighting. Shall be installed and operated in a manner such that no illumination source shall create a nuisance to adjoining property owners.

(F) Vehicular access. Shall be so designed and located as to create a minimum interference with traffic on the surrounding public streets. No more than two driveways, each not to exceed 30 feet in width at the property line, shall be permitted on each street frontage of the property.

(G) Off-street parking and loading and unloading requirements. Must meet the requirements of §§ 155.175 through 155.198.

(H) Snow storage. On-site snow storage shall be provided for in the amount of 10% of the total required parking space. This storage shall be in addition to the required parking space.

(I) Storage. No vehicles, trailers, or any other nonpermanent structure may be used for storage of goods or equipment within this District, without permission of the Planning Commission.

(J) Signs. All signs to be located outside any building in a Neighborhood Commercial District shall conform to the following requirements:

(1) They shall be placed flat against the main building, or parallel to the building on a canopy and may face only public streets or parking areas which are part of the development. No signs or billboards shall be placed on or over a lot or public right-of-way in a C-1 District, not occupied by the principal structure for which the sign is for, without detailed plans and specifications regarding height, size, construction materials, location and appearance, and the subsequent approval of the Planning Commission. Each individual sign shall be determined on an individual basis, with regard to the aforementioned criteria.

(2) They may not exceed in height, 2- % of the building height and a total area of all signs shall not exceed 30 % of the area of the nearest building face with which the signs are parallel.

(3) Signs may be illuminated, but not flashing.

(4) One additional sign may be placed or attached to the building, but not extending over a public right-of-way, near one entrance on each street upon which the lot or parcel fronts. The sign shall convey only the identification of the permitted use, and be located so view of traffic is not obstructed for pedestrians and motorists and may not exceed 25 square feet in area.

(5) Signs purely for traffic regulation and direction within the development may be utilized as required.

(Ord. passed 8-27-90) Penalty, see § 155.999

## ***C-2 DOWNTOWN/HIGHWAY COMMERCIAL DISTRICT***

### **§ 155.075 PURPOSE.**

This District is established for the purpose of accommodating the widest variety and highest concentration of retail and service establishments to be located in the major service centers of the city; and further, to permit those additional uses which can be appropriately located in such a central area. This District provides major retail and service facilities to the people of the city and extending to the immediately surrounding regions. All developed and undeveloped lots shall be seeded with grass, except by permission of the Planning Commission.

(Ord. passed 8-27-90)

### **§ 155.076 PERMITTED USES.**

The following types of commercial activities may be permitted:

(A) Single and multiple retail establishments selling principally new merchandise.

- (B) Personal and business services.
  - (C) Hotels and motels.
  - (D) Passenger terminals and information centers.
  - (E) Offices, banks, public buildings, and public utility installations.
  - (F) Restaurants and drive-in businesses.
  - (G) Business, trade of public schools.
  - (H) Dancing and music studios.
  - (I) Sales and showrooms, including automobiles and recreational vehicles.
  - (J) Funeral homes and mortuaries.
  - (K) Commercial recreational facilities.
  - (L) Commercial or public parking lots.
  - (M) Automobile service and repair stations.
  - (N) Bars, taverns, nightclubs, or inns.
  - (O) Household and family service businesses, including laundromats, dry cleaning establishments, and similar establishments.
  - (P) Residential dwelling units.
- (Ord. passed 8-27-90)

## **§ 155.077 PERMITTED USES WITH CONDITIONAL USE PERMIT.**

The following types of commercial activities may be permitted with a conditional use permit:

- (A) Manufacturing and processing establishments, selling at least 50% of the entire output at retail on the premises.
- (B) The steam cleaning or physical modification of motor vehicles.

(Ord. passed 8-27-90)

## **§ 155.078 DIMENSIONAL REQUIREMENTS.**

The following minimum dimensions shall be as follows, except where noted:

- (A) Minimum lot area: 5,600 square feet.
- (B) Minimum lot width: 40 feet.

(C) Required yards.

(1) Front yard. The minimum front yard setback shall be 20 feet, with the exception of Sunday lake Street, where there shall be no front yard required.

(2) Side yard. The minimum side yard setback shall be five feet.

(3) Rear yard. The minimum rear yard setback shall be 30 feet.

(D) Maximum building height. Two stories, but not to exceed 35 feet.

(E) Lighting. Shall be installed and operated in a manner such that no illumination source shall be a nuisance to adjoining property owners.

(F) Vehicular access. Shall be so designed and located as to create a minimum interference with traffic on the surrounding public streets. No more than two driveways, each a minimum of 18 feet, but not to exceed 30 feet in width at the property line, shall be permitted on each street frontage of the property.

(G) Off-street parking and loading and unloading requirements. Must meet the requirements of §§ 155.175 through 155.198.

(H) Snow storage. On-site snow storage shall be provided in the amount of 10% of the total required parking space. This storage amount shall be in addition to the required parking space.

(I) Storage. No vehicles, trailers, or any other nonpermanent structure may be used for storage of goods or equipment within this District, without permission of the Planning Commission. All temporary structures used for display and/or sale of goods or equipment shall first receive a permit from the City Clerk, prior to the erection of that structure.

(J) Signs. All signs to be located outside any building in a Downtown/Highway Commercial District shall conform to the following requirements:

(1) They shall be placed flat against the main building, or parallel to the building on a canopy and may face only public streets or parking areas which are part of the development. No sign or billboards shall be placed on or over a lot or public right-of-way in a C-2 District, not occupied by the principal structure for which the sign is for, without detailed plans and specifications regarding height, size, construction materials, location and appearance, and the subsequent approval of the Planning Commission. Each individual sign shall be determined on an individual bases, with regard to the aforementioned criteria.

(2) They may not exceed in height, 20% of the building height, and the total area of all signs shall not exceed 30% of the area of the nearest building face with which the signs are parallel.

(3) Signs may be illuminated, but not flashing.

(4) One additional sign may be placed free-standing or attached to the building but not extending over a public right-of-way, near one entrance on each street

upon which the lot or parcel fronts. That sign shall convey only the identification of the permitted use, and shall be located so that the view of traffic is not obstructed for pedestrians and motorists and may not exceed 25 square feet in area.

(5) Signs purely for traffic and direction within the development may be utilized as required, but may not exceed four square feet.

(Ord. passed 8-27-90) Penalty, see § 155.999

## ***I INDUSTRIAL DISTRICTS.***

### **§ 155.090 PURPOSE.**

This district is established for the purpose of encouraging within it the development of manufacturing, processing storage, and office establishments as one in which the principal use of land is for industrial activities wholly compatible with all other uses permitted in this District. In general, the permitted uses include those which are a type not requiring the customer to call at the place of business, but normally have contact by mail or agent. All developed or undeveloped lots shall be seeded with grass, except by permission of the Planning Commission.

(Ord. passed 8-27-90)

### **§ 155.091 PERMITTED USES.**

(A) In this District, no building, structure, or land shall be used and no building or structure shall hereafter be erected, structurally altered, or enlarged, except for the uses set forth in this section. All permitted uses require plans and specifications to be submitted in accordance with the site plan review.

(B) Any production, processing, cleaning, testing, repairing, storage, and distribution of materials, goods, foodstuffs, and products not involving a normal retail or service activity on the lot.

(C) Veterinary hospitals and kennels.

(D) Wholesale businesses or warehouses.

(E) Building supply and equipment stores and yards.

(F) Contractor's establishments not engaging in any retail activities on the site.

(G) Accessory uses clearly related with the main use, such as:

(1) Restaurant or cafeteria facilities for employees.

(2) Caretaker's residence if situated upon a portion of main use lot.

(3) Office facility.

(Ord. passed 8-27-90) Penalty, see § 155.999

## **§ 155.092 PERMITTED USE BY CONDITIONAL USE PERMIT.**

With plans and specifications submitted for site plan review and in accordance with all requirements mentioned within this section.

- (A) Junkyards and salvage yards.
- (B) Stone cutting and monuments.
- (C) Lumber mills.

(Ord. passed 8-27-90)

## **§ 155.093 PROHIBITED USES.**

The following uses shall be prohibited:

- (A) Dwelling units of any type.
- (B) Abattoir or slaughterhouse.
- (C) Blast, cupola or metal furnace.
- (D) Boiler shops.
- (E) Coke ovens or lime kilns.
- (F) Fat rendering.
- (G) The incineration, reduction, or dumping of offal or garbage.
- (H) Manufacture of acetylene gas, asphalt or its products, asbestos, metal, bleaching powder, coal tar or its products, pulp or paper, and petroleum or its products.

(Ord. passed 8-27-90) Penalty, see § 155.999

## **§ 155.094 REQUIREMENT SPECIFICATIONS.**

(A) Building permit application requirements. Any application for a building permit for a use located in this District shall be accompanied by:

- (1) A plot or site plan of the gross property, showing the location of all present and proposed building drives, parking lots, waste disposal fields, screening fences or walls, and other construction features on the lot as well as streets, alleys,

highways, streams and other topographical features inside the lot and within 200 feet of the lot lines.

(2) Building, structural, and site plans and specifications prepared by a registered architect, engineer, or landscape architect.

(3) A description of the operations proposed in sufficient detail to indicate the effects of those operations on producing traffic congestion, noise, glare, air or water pollution, fire and safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation.

(4) Engineering and architectural plans for the pretreatment and disposal of sewage or industrial waste or any unusable by-product.

(5) Engineering and architectural plans for the handling of any traffic congestion, noise, glare, air or water pollution, fire and safety hazards, or the emissions of any potentially harmful or obnoxious matter or radiation.

(B) Use requirements.

(1) Activities in this District shall be carried on in completely enclosed buildings. Storage may be permitted out-of-doors, provided that when within 100 feet of any other district, all storage shall be in a completely enclosed building or shall be effectively screened by a wall, fence, or earth berm that shall be at least two feet above the highest point of stored material.

(2) Noise emanating from a use in this District shall not exceed 8- decibels at the boundaries of the lot. Short intermittent noise peaks (not to exceed one minute in length) may be expected, but not to exceed more than one noise peak per hour.

(3) Uses in this District shall be such that they:

(a) Emit no obnoxious, toxic, or corrosive smoke, fumes, or gases; except for those produced by internal combustion engines under design and operating conditions.

(b) Emit no odorous gases or other odorous matter in such quantities as to be offensive at or beyond any point on the boundary of the use parcel, provided that any process which may involve the creation or emission of any odors, shall be provided with a secondary safeguard system so that control will be maintained if the primary safeguard system should fail.

(c) Discharge into the air no dust or other particulate matter created by any industrial operation or emanating from any products stored prior to or subsequent to processing.

(d) Produce no heat, glare, noise or physical vibrations humanly perceptible at or beyond the boundary lines.

(e) Utilize all lighting in a manner which produces no glare on public streets or any other parcel.



(f) Produce no electromagnetic radiation or radioactive emissions injurious to human beings, animals, or vegetation, or of any intensity that interferes with the lawful use of any other property.

(g) Do not engage in the production or storage of any material designed for use of any other property.

(g) Do not engage in the production or storage of any material designed for use as an explosive, nor in the use of that material in production.

(C) Minimum lot area: 11,200 square feet.

(D) Minimum lot width: 80 feet, nimbus lot width.

(E) Yards.

(1) Front yards. The minimum front yard setback shall be 30 feet.

(2) Side and rear yards. Side and rear yards shall be a minimum of 30 feet, except that no structure shall be less than 80 feet from any residential district. Side and rear yards may be used for parking and loading/unloading; if they are, a strip 20 feet in width along streets and highways and adjacent to residential districts, shall be excepted and reserved as an open space or planting strip.

(F) Maximum building height. Two stories, but not to exceed 35 feet. However, this may be exceeded, upon written approval by the State Fire Marshal of an approved on-site fire protection system, to a maximum of four stories or 70 feet.

(G) Lighting. Shall be installed and operated in a manner that no illumination source shall create glare on any public street or become a nuisance to adjoining property owners.

(H) Vehicular access. Shall be so designed and located as to create a minimum interference with traffic on the surrounding public streets. No more than two driveways, each a minimum of 18 feet, not to exceed 30 feet in width at the property line, shall be permitted on each street frontage of the property. No motor vehicle driveway access to this District shall be through any other zoning district.

(I) Off-sheet parking and loading and unloading requirements. Must meet the requirements of §§ 155.175 through 155.198.

(J) Snow storage. On-site snow storage shall be provided for in the amount of 10% of the total required parking space. This storage amount shall be in addition to the required parking space.

(K) Signs. All signs to be located outside any building in an Industrial District shall conform to the following requirements:

(1) They shall be placed flat against the main building, or parallel to the building on a canopy and may face only public streets or parking areas which are part of the development. No signs or billboards shall be placed on or over a lot or public right-of-way in an Industrial District, not occupied by the principal structure for which the sign

is for, without detailed plans and specifications regarding height, size, construction materials, location and appearance, and the subsequent approval of the Planning Commission. Each individual sign shall be determined on an individual basis, with regard to the aforementioned criteria.

(2) They may not exceed in height, 20% of the building height, and a total area of all signs shall not exceed 30% of the area of the nearest building face with which the signs are parallel. A sign perpendicular to the main building shall not exceed 40 square feet in area on each face.

(3) Signs may be illuminated, but not flashing.

(4) One additional sign may be placed free-standing or attached to the building, but not extending over a public right-of-way, near one entrance on each street which the lot or parcel fronts. That a sign shall convey only the identification of the permitted use, shall be located so that the view of traffic is not obstructed for pedestrians or motorists, and may not exceed 25 feet in area.

(5) Signs purely for traffic regulation and direction within the development may be utilized as required, but may not exceed four square feet.

(Ord. Passed 8-27-90) Penalty, see § 155.999

## ***O OPEN AREA DISTRICT***

### **§ 155.105 PURPOSE.**

The primary intended use of this District is for agriculture, forestry, recreation, public land use, or similar use, and only buildings incidental thereto. All developed and undeveloped lots shall be seeded with grass, except by permission of the Planning Commission.

(Ord. passed 8-27-90)

### **§ 155.106 PERMITTED USES BY CONDITIONAL USE PERMIT.**

Any modification, altering, excavating, erecting, or razing of structures or the natural characteristics of the land shall require the acquisition of a conditional use permit before any modification, altering, excavating, erecting, or razing can take place, with the exception of agricultural and forestry activities.

(Ord. passed 8-27-90)

### **§ 155.107 SIGNS.**

No signs or billboards shall be placed on or over a lot or public right-of-way in an Open Land District, not occupied by the principal structure for which the sign is for, without detailed plans and specifications regarding the height, size, construction materials, location, and appearance, and the subsequent approval of the Planning

Commission. Each individual sign shall be determined on an individual basis, with regard to the aforementioned criteria.

(Ord. passed 8-27-90) Penalty, see § 155.999

## ***PLANNED UNIT DEVELOPMENTS (P.U.D.)***

### **§ 155.120 PURPOSE.**

The purpose of the Planned Unit Development (P.U.D.) District is to provide for and accommodate special innovative types of land use development of a single or mixed land use and activity character that can be designed on a lot or parcel of land, and integrated into existing developments as harmoniously as possible. It can include such types of projects as cluster development, cluster zoning, planned development communities, and planned residential, commercial, industrial, and public and semi-public developments.

(Ord. passed 8-27-90)

### **§ 155.121 PERMITTED USES.**

(A) All principle permitted uses and, and if approved, special uses as specified in each of the zoning districts included in this zoning code.

(B) All accessory uses specified and customarily incidental to each of the permitted uses as specified in each of the zoning districts included in this zoning code.

(Ord. passed 8-27-90)

### **§ 155.122 CONTINUING APPLICABILITY OF INFORMATION ON APPROVED SITE PLANS.**

The location of all uses and buildings, all uses and mixtures thereof, all yards and transition strips, and all other information regarding uses of properties as shown on, or as a part of a site plan which is approved subsequent hereto, shall have the full force and permanence of the zoning code. This information shall be the continuing obligation of any subsequent interests in a P.U.D. District, or parts thereof, and shall not be changed or altered, except as approved through amendment or revision procedures as set forth in this chapter. The approved plans and any conditions attached thereto shall control all subsequent planning and development. A parcel of land that has been approved as a P.U.D. District, shall thereafter be developed or used, except in accordance with the approved site plan and plats approved subsequent thereto.

(Ord. passed 8-27-90)

## **§ 155.123 CONSTRUCTION.**

No construction, grading, tree removal, soil stripping, or other site improvements or changes shall commence, and no permit shall be issued on a lot with, or under petition for a P.U.D. District classification, under the requirements of this chapter, have been met.

(Ord. passed 8-27-90) Penalty, § 155.999

## **§ 155.124 LETTER OF CREDIT.**

A letter of credit shall be required of all developments and of all developments and of all phased developments on a per-phase basis. Cost levels to be used in setting bond amounts shall be based upon findings regarding estimated cost, as reported by the City Manager.

(Ord. passed 8-27-90)

## **§ 155.125 PREAPPLICATION CONFERENCE.**

(A) An applicant for a P.U.D. District may request a reapplication conference with the City Manager prior to filing an application for rezoning.

(B) The purpose of the conference shall be to inform the city and other officials of the concept of the proposed development and to provide the applicant with information regarding land development policies, procedures, standards, and requirements of the city and other agencies. The applicant is encouraged to present schematic plans, site and date, and other information that will explain the proposed development.

(C) Statements made in the conference shall not be legally binding commitments.  
(Ord. passed 8-27-90)

## **§ 155.126 SITE PLAN REQUIREMENTS.**

(A) A site plan shall be submitted for approval for each phase of development. Preliminary site plans shall be submitted and reviewed in accordance with, and shall meet all provisions of the site plan review, herein.

(B) The Planning Commission may require the applicant to provide housing and commercial market analysis, traffic studies, and other information necessary for the Commission to properly and adequately analyze a P.U.D. District with respect to this requirement.

(C) To that end, an impact assessment may be required of the applicant and submitted to the Planning Commission concurrent with the site plan. This document shall be prepared in narrative form (with accompanying charts, graphs, maps, and/or tables as may prove necessary). Topics to be addressed shall include community

impacts (such as additional traffic generated per 24-hour period, directional distribution of trips generated by proposed development, additional public services anticipated, and the like) and environmental impacts (such as soils on the site and any impact on these soils by the development).

(D) Measures to be used by the developer in mitigating any negative impacts likely to result from the proposed development should also be included in the impact assessment.

(Ord. passed 8-27-90)

## **§ 155.127 ADMINISTRATIVE REVIEW PROCEDURE FOR SITE PLAN.**

(A) A petition for a rezoning to a P.U.D. District shall be made by the owner of record of the subject parcel. The petitioner shall provide evidence of full ownership of all land in a P.U.D. or executions of a binding sales agreement, prior to receiving a recommendation of approval of the petition and site plan by the Planning Commission. A binding option shall also satisfy the requirements of this division.

(B) The application shall be filed with the office of the City Clerk, who shall transmit the application and the site plan to the Planning Commission. The application shall be filed at least two weeks prior to the next regular Planning Commission meeting, at which it will be considered.

(C) The Planning Commission shall schedule a public hearing on the application and site plan within 30 days of its appearance on the Planning Commission agenda at the next regular Planning Commission meeting.

(D) At the public hearing, the petitioner shall present evidence regarding adherence to all pertinent standards and requirements. To this end, evidence and expert opinion shall be submitted by the applicant in the form of maps, charts, reports, models, and other materials, and/or in the form of testimony by experts who can clearly state the full nature and extent of the proposal. Materials shall be submitted in sufficient quantity for review by the Planning Commission and other city officials. Materials submitted shall include the required site plan and any complementary sources of information necessary to satisfy the requirements detailed in § 155.129.

(E) The Planning Commission shall undertake a study of the application and site plan, and shall conclude its findings within 60 days after the date of the public hearing. This report shall contain the Planning Commission's analysis of the application and site plan, findings regarding standards, suggested conditions of approval, if applicable, and its recommendations. Materials and information to be considered in this study and review process shall include input from other agencies such as the City Manager, City Public Works Department, and County Health Department.

(F) If the application and site plan are approved by the Planning Commission, the applicant and all owners of record, of all property included within the P.U.D. shall sign a statement that the approved petition and area plan shall be binding upon the petitioner

and owners of record, or their assigned agents upon their heirs, successors, and assigns.

(Ord. passed 8-27-90)

## **§ 155.128 SUPPLEMENTARY DEVELOPMENT STANDARDS AND REGULATIONS.**

(A) The requirements set forth in this section expand upon and/or are in addition to the requirements detailed in the site plan review. They shall, in all cases, be adhered to by the developments in a P.U.D. District.

(B) District location and minimum size.

(1) All developments in this District shall have tracts of land of at least the following acreage for the various predominant types of P.U.D.'s:

Residential	Five acres
Commercial	Five acres
Industrial	Ten acres

(2) All developments in this District shall be restricted to sites having access to a hard-surfaced, year-round roadway which meets established cit standards.

(C) External and internal circulation and access.

(1) Access points to a P.U.D. Commercial or Industrial development shall be located no less than 500 feet apart, when measured parallel to the adjoining roadway; and, in no case, shall any point of ingress or egress be closer than 250 feet from either side lot line of the parcel.

(2) Each lot or principal building shall have an internal vehicular access from a public street or private street, approved by the Planning Commission and City Manager.

(3) Each lot or principal building shall have pedestrian access from a public or private sidewalk, where deemed necessary by the Planning Commission, as part of the site plan.

(4) As property is developed as a P.U.D. District, a pathway system linking residential units with both on-site amenities (such as recreation areas, shopping, places of employment, and the like) and, unless it is demonstrated to the Planning Commission that such a system would be inappropriate or unnecessary to the development, with adjoining parcels must be provided. The pathway system shall be so designed so as to be appropriate to non-motorized transport modes (such as bicycles, walking, and the

like). The pathway should be no less than five feet in width and it shall be constructed of materials suited to walking and non-vehicular use.

(5) Standards of design and construction for public and private streets may be modified to adequately provide the service required. Right-of-way standards may also be modified, especially where the site plan provides for separation of pedestrian and vehicular traffic and adequate off-street parking facilities. Modifications of proposed public streets shall first be approved by the City Manager.

(6) Public and private streets shall be designed and constructed according to established standards for plat development and street construction of the City Council and approved by the City Manager, except that those standards may be modified as provided in division (B)(4) of this section. If private streets are to be dedicated to a public agency in the future, the applicants shall first agree to bear the full expense of making the streets suitable for public acceptance by constructing them to the required standards.

(D) Open space regulations.

(1) An area constituting not less than 25% of the total land area the parcel shall be designed as permanent open space. The required open space must be set aside by the developer in the form of an immovable conveyance, whereby the open space area must be developed according to the approved site plan and may never be changed to any other use. Further, this conveyance must provide that the open space is for the use and employment of the occupants of the District and the open space shall be considered as an integral component of the overall Planned Unit Development. The developer shall provide for perpetual and mandatory maintenance of the open space, through the use of deed restrictions, which shall provide for participation in the maintenance cost by each occupant (be they residential, commercial, or industrial) within the Planned Unit Development.

(2) Buildings, parking lots, drives, and similar improvements may be permitted in open space areas if related and necessary to the functions of the open space. Other buildings and improvements shall be prohibited therein.

(3) Open space areas shall be conveniently located in relation to the various building units and functions intended.

(4) Open space areas shall have minimum dimensions which are usable for the functions intended and which shall be maintained at those dimensions for the functions intended.

(5) The Planning Commission may require unique amenities such as ravines, rock outcrops, wooded areas, tree or shrub specimens, unusual wildlife habitats, ponds, streams, and the like to be preserved as part of the open space system.

(E) Landscaping and parking.

(1) The off-street parking and loading requirements set forth under their respective sections, shall apply except that the number of spaces required may be

reduced if approved by the Planning Commission, as part of the site plan. Any reductions shall be based upon specific findings that justify such a reduction.

(2) All required off-street parking shall adhere to the requirements detailed in the section regarding off-street parking, herein, and shall be screened from the adjoining roadways and landscaped through installation of landscaped earth berms at least three feet in height when measured from a base elevation of the town of the adjoining established curb elevation. Berms shall be constructed so as to provide a maximum slope of 33%. Each shall be planted in grass, with additional plantings (such as shrubs, trees, and the like) to be selected pursuant to division (D)(3) of this section.

(3) Specific plant materials to be acceptable for use in a landscape are those of a quality acceptable to the Association of American Nurserymen and suited both to climatic conditions typical of the region. The developer shall ensure perpetual and mandatory maintenance and/or replacement of vegetative plantings pursuant to the landscape plan, through the use of deed restrictions, which shall provide for participation in the maintenance cost by the owners of the Planned Unit Development District.

(4) A landscaped strip, no less than 20 feet in width, shall be required when a free-standing physical structure containing a commercial office, industrial or other non-residential use is located adjacent to a residential use or zoning district. The strip shall be located between the two uses and shall be landscaped with trees and ground cover.

(F) Utilities.

(1) Each principal building shall be connected to a public water and sanitary sewer line approved by the city.

(2) All development will be required to provide fire hydrants, sufficient in number and location to provide adequate protection.

(3) Each site shall be provided with adequate storm drainage. Open drainage courses and stormwater retention ponds may be required. All streets shall be provided with adequate storm drainage facilities.

(4) Electrical, telephone, and cable television lines shall be placed underground. Surface-mounted equipment for underground wires shall be shown on the final site plan and shall be screened from view.

(5) Standard sidewalks and/or a system of street lights shall be required of developments in the P.U.D. District. Maintenance of either shall be ensured through implementation of a system of deed restrictions providing for participation in maintenance costs by all owners of the development.

(G) Site design, layout, and density criteria.

(1) All density requirements shall be completed on a total area basis, using private driveways, designated open space, and off-street parking areas, as well as actual building sites in the computations.



(2) Water areas (such as streams, ponds, lakes, and/or similar water bodies) may be included in density calculations as follows: when and where water areas, whether natural or proposed for construction by the applicant, 50% of the total water area may be included in density calculations.

(3) Residential areas may contain several different types of dwelling units if it can be demonstrated to the satisfaction of the Planning Commission, that the proposed combination of the type will not interfere with the reasonable platting of any area to be platted.

(4) The outdoor storage of goods and materials shall be prohibited in the Planned Unit Development District.

(H) Legal mechanisms to ensure facility and open space maintenance.

(1) Legal instruments setting forth the manner of permanent maintenance of common areas and facilities shall be submitted to the City Council and City Attorney for review before the Planning Commission approves a final plan or final plat as a part of a P.U.D.

(2) Where a Homeowners Association (HOA), and Association of Commercial Establishments (ACE), and Association of Industrial Establishments (AIE) or any other association is to be used to maintain common areas and facilities, the developer shall file a declaration of covenants and restrictions that will govern the specified association with the approved P.U.D. site plan. The provisions shall include, but shall not be limited to, the following:

(a) A specified association shall be established before any building units in the P.U.D. are sold.

(b) Membership in the association shall be mandatory for each building unit buyer and for any successive buyer and shall be so specified in the deed restrictions.

(c) Deed restrictions shall be permitted.

(d) The specified association shall be made responsible for liability.

(e) Building unit owners shall pay their prorated (pro-rata) share of the costs and this requirement shall be specified in the deed restrictions. The method of collection assessments levied by the specific association shall be specified in the deed restrictions.

(I) Project phasing.

(1) If the proposed development is to be constructed in phases, a narrative description of that phased process that describes all work to be done in each phase shall be submitted to the Planning Commission when the site plan and impact assessment are submitted.

(2) A phase shall be dependent upon subsequent phases for safe and convenient vehicular and pedestrian access, adequate utility services, open spaces, and recreational facilities.

(3) The Planning Commission may require the development must be phased so that the development will generally balance the expenditures required by the public agencies to properly service the P.U.D. development, so that serious overloading of utility services and community facilities will not result and that the various amenities and services necessary to provide a safe, convenient and healthful development environment will result from the completion of any one or combination of phases.

(4) The Planning Commission may require that land shown as open space on the approved P.U.D. site plan, be held in reserve as part of the phase to be developed, in order to guarantee that density limits for the entire approved P.U.D. will be exceeded when the subject phase is completed. The reserved land may be included in the development of subsequent phases if the density limits will not be exceeded upon completion of that phase, or if other land is similarly held in reserve.

(Ord. passed 8-27-90) Penalty, see § 155.999

## **§ 155.129 STANDARDS FOR REVIEW.**

(A) During the site plan review, the Planning Commission shall determine and shall provide evidence in its findings to the effect that the application, site plan, and supplementary informational materials submitted by the applicant, meet the standards set forth in this section.

(B) The proposed development shall conform to the intent and all regulations and standards of a P.U.D. District.

(C) The proposed development shall be adequately served by public facilities and services, such as highways, streets, sidewalks, street lights, police and fire protection, drainage courses, water, and sanitary sewer facilities, and refuse disposal; or that the persons or agencies responsible for the proposed development for the proposed development shall be able to properly provide those facilities and services.

(D) Common open spaces, other common properties and facilities, individual properties, and all other elements of a P.U.D. are so planned that they will achieve a unified open space and recreation area system, with open space and all other elements in appropriate locations, suitably related to each other, the site and surrounding lands.

(E) The applicant shall have made provisions to ensure the public and common areas will be or have been irrevocably committed by deed restrictions for that purpose. Provisions shall have been made to provide for financing of improvements shown on the plan for open space and other common areas, and that proper maintenance of those improvements is ensured through a deed restriction.

(F) Traffic, to, from and within the site will not be hazardous or inconvenient to the project, or to the surrounding and adjacent areas. In applying this standard, the Planning Commission shall consider, among other things, convenient routes for

pedestrian traffic, relationship of the proposed project to main thoroughfares and street intersections, and the general character and intensity of the existing, planned, zoned, and potential development of the surrounding and adjacent areas.

(G) The mix of housing and other building types and densities, and the mix of residential and nonresidential uses shall be acceptable in terms of convenience, privacy, compatibility, and similar measures.

(H) The Planning Commission shall determine, where applicable, that noise, odor, light, or other external effects which are connected with the proposed use, will not adversely affect the adjacent and surrounding land and uses.

(I) The proposed development shall create a minimum disturbance to natural features and landforms.

(J) Streets shall generally parallel topographical contours, be properly spaced, and be located and aligned in accordance with the intended function of each street. The property and each building shall have adequate access to public streets. The plans shall provide for logical extensions of public streets and shall provide suitable street connections to adjacent parcels, where applicable.

(K) Pedestrian circulation shall be provided within the P.U.D. site and shall interconnect all use areas where applicable. The pedestrian system shall provide for a logical extension of pedestrian ways outside the site and to the boundaries of the P.U.D., where applicable.

(Ord. passed 8-27-90) Penalty, see § 155.99

## **§ 155.130 AMENDMENTS TO SITE PLANS.**

Preliminary and final P.U.D. site plans may be amended in accordance with the process detailed in the site plan review.

(Ord. passed 8-27-90)

## **§ 155.131 EXTENSION OF TIME LIMITS.**

Time limits set forth in the site plan review may be extended upon showing good cause, and by written agreement between the applicant and the Planning Commission.

(Ord. passed 8-27-90)

## **§ 155.132 AS-BUILT DRAWINGS.**

As-built drawings shall be provided in accordance with the site plan review as each P.U.D. or phase of a P.U.D. is completed.

(Ord. passed 8-27-90)

## **§ 155.133 PERFORMANCE GUARANTEES.**

Performance guarantees shall be provided in accordance with the site plan review.

(Ord. passed 8-27-90)

## **§ 155.134 VIOLATIONS.**

Violations shall be dealt with in the manner detailed in the site plan review.

(Ord. passed 8-27-90)

# ***HOME OCCUPATIONS***

## **§ 155.145 PURPOSE.**

A home occupation is an accessory use of the main dwelling that shall constitute either entirely or partially the livelihood of a person living in the dwelling, provided it complies with all applicable performance standards set forth in the following sections of this subchapter.

(Ord. passed 8-27-90)

## **§ 155.146 PERFORMANCE STANDARDS.**

(A) A home occupation must be conducted in compliance with the following standards and limitations:

(1) The occupation should not be the primary use of the dwelling. It should occupy no more than 25% of the gross floor area, except by special permit.

(2) The business does not change the residential character of the dwelling, be visible from the street, and not result in outside storage unrelated to the use of the dwelling as a residence.

(3) It should have no signs visible from the street, except signs allowed under the local sign ordinance governing that particular residential area.

(4) It should not include the use of electrical or mechanical equipment that would change the fire rating of the structure, create visible or audible interference in radio and/or television receivers or cause fluctuations in line voltage outside the dwelling unit.

(5) It should have no more than one full-time employee on the premises which is not a resident of the premises, except by special permit.

(6) It should not create objectionable noises (0 dB above ambient at the property lines), noticeable vibrations, or objectionable odor at the property lines.

(7) It should not generate sewage or water use in excess of what is normal in the residential district, in which it is located.

(8) It should not create vehicular nor pedestrian traffic, nor parking in excess of what is normal for the district in which it is located.

(9) Signage shall be limited to one non-illuminating nameplate, measuring one foot by two feet in size, and shall be attached flush to the front of the building.

(10) Home occupation shall be registered with the City Clerk by an annual date each year and pay the annual fee for the same as established by the City Council.

(B) An applicant shall apply with the City Clerk, pay the necessary fee, and be approved by the Planning Commission prior to commencement of the home occupation.

(C) Any violation of any of the above conditions or failure to obtain a home occupation permit, will result in revocation of approval to conduct that operation, subject to a fine by the County Sheriff if operations do not cease within seven calendar days of notification.

(Ord. passed 8-27-90) Penalty, see § 155.999

## **§ 155.147 PERMITTED HOME OCCUPATIONS.**

(A) The following are permitted home occupations, provided they do not violate any of the provisions of the previous and that they are consistent with state and local licensing requirements:

- (1) Beauty/barbershop, single chair.
- (2) bed and breakfast operation.
- (3) Catering, home cooking, and preserving.
- (4) Child care.
- (5) Computer programming and services
- (6) Contractor or decorator.
- (7) Direct sale product distribution (for example, Amway, Avon, Mary Kay, and the like).
- (8) Taxidermy.
- (9) Dressmaking, sewing, and tailoring.
- (10) Draftsman and graphic services.
- (11) Flower arranging.

(12) Gardening, landscape maintenance.

(13) Home crafts such as model making, rug weaving, lapidary work, jewelry making, woodworking, and upholstery.

(14) Individual musical instrument instruction, provided that the instrument is not amplified.

(15) Interior designers.

(16) Janitorial and cleaning services.

(17) Laundry and ironing services.

(18) Locksmith.

(19) Mail order catalog service.

(20) Office of minister, priest, or rabbi.

(21) Tutoring or educational instruction.

(22) Telephone answering or solicitation work.

(23) Secretarial services.

(24) Small item repair service.

(25) Painting, sculpturing, photography, or writing.

(26) Office of a sales representative or manufacturing representative.

(27) Office of an accountant, architect, consultant, counselor, engineer, real estate broker, investment/financial planner, land surveyor, lawyer, or psychologist/psychiatrist.

(B) Other similar businesses as approved by the Planning Commission may be permitted. The above list is not exclusive.

(Ord. passed 8-27-90)

## **§ 155.148 PROHIBITED HOME OCCUPATIONS.**

(A) The following are prohibited as home occupations:

(1) Amusement or dance parlor.

(2) Funeral home or chapel.

(3) Health salons or gyms.

(4) Kennel or other boarding of animals.

(5) Medical or dental clinic or hospital.

(6) Motor vehicle repair, parts sales, upholstery, sales or fleet storage.

- (7) Nursing homes.
- (8) Private clubs.
- (9) Repair or testing of internal combustion engines.
- (10) Restaurants.
- (11) Taverns, bars, nightclubs.
- (12) Veterinary clinic or animal hospital.

(B) Other similar types of businesses are prohibited. The above list is not exclusive.

(C) Any proposed home occupation that is neither specifically permitted in § 155.147, nor specifically prohibited in § 155.148 shall be considered for approval or denial by the Planning Commission, upon consideration of the standards set forth in § 155.146. In many cases, determination whether a proposed use may be conducted in a dwelling will rest on the nature and extent of the particular operation, rather than its classification.

(Ord. passed 8-27-90) Penalty, see § 155.999

## ***CONDITIONAL USES***

### **§ 155.160 PURPOSE.**

In order to make this chapter flexible to meet the changing trends in development and new technology, the authorization of special uses to be conducted upon approval of the Planning Commission is made. In this way, the chapter does not become a rigid document that cannot be altered but serves as a guideline upon which the Planning Commission, with the approval of the City Council, may make enlightened judgments keeping developments within the general philosophy of this chapter. Land and structure uses not specifically mentioned in the foregoing text or possessing unique characteristics, are designated as conditional uses and, as such, may be authorized by the issuance of conditional use permits, with those conditions and safeguards attached in writing as may be deemed necessary for the protection of the public welfare.

(Ord. passed 8-27-90)

### **§ 155.161 PROCEDURES FOR MAKING APPLICATION.**

(A) The procedures set forth in this section shall be followed in the application of conditional use permits.

(B) Application submitted to the Planning Commission. Applications shall be submitted through the City Clerk to the Planning Commission. Each application shall be accompanied by criteria approved by the Planning Commission.

(C) Data required in the application. Application shall be made on a special form provided for that purpose, listing the following information:

(1) Site plan plot plan or development plan of the total property involved, showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings, and their uses.

(2) Preliminary plans and specifications of the proposed development.

(D) Review by the Planning Commission. The Planning Commission shall review the application in accordance with the site plan review and the standards therein, and shall decide each application on the basis of whether or not the proposal will be harmonious with, and in accordance with, the general and specific objectives of this chapter.

(E) Public hearing. The Planning Commission shall, after adequate study and review of the application, hold a public hearing on the application after at least one publication in a newspaper of general circulation in the city, at least five days prior to the date of the hearing, indicating the time, place and subject of the hearing.

(F) Issuance of conditional use permit. The Planning Commission may issue a conditional use permit after conclusion of hearing procedures, and subsequent written agreement with the applicant concerning exact plans, specifications, and conditions to be met by the applicant in accordance with the approved permit.

(G) Financial guarantee requirements. A financial guarantee acceptable to the City Council may be required.

(Ord. passed 8-27-90)

## **§ 155.162 CANCELLATION OF CONDITIONAL USE PERMIT.**

The Planning Commission may cancel any conditional use permit when construction authorized by that permit has not commenced within 180 days of the date of issuance of the conditional use permit, construction has commenced within the 180 days, but is not proceeding progressively to completion or any of the conditions to be met by the applicant are violated.

(Ord. passed 8-27-90)

## **§ 155.163 CONDITIONAL USES.**

(A) When, in its judgment, the public welfare will be substantially served and the appropriate use of the neighboring property will not be injured thereby, the Planning Commission in a specific case, after due notice and public hearing, and subject to appropriate conditions and safeguards, determine and vary the application of the regulations of this chapter in harmony with their general purposes and intent by the issuance of either temporary or special permits as conditional uses for the land and structure uses set forth in this section.



(B) Temporary permits. For temporary structures for dwelling purposes, including trailer coaches, subject to the following procedures and limitations:

(1) An application for a permit for the erection or movement of a temporary structure for dwelling purposes, including trailer coaches, shall be made to the Planning Commission on a special form used exclusively for that purpose and a fee submitted at the time of application in accordance with the established fee schedule of the City Council.

(2) The Planning Commission shall give ten days' notice by first-class mail to the applicant and to all property owners within 300 feet of all property lines.

(3) The permit shall not be granted unless the Planning Commission finds adequate evidence showing that the proposed location will not be detrimental to property in the immediate vicinity, and that the proposed water supply and sanitary facilities have been approved by the County Health Department, or that the occupants of the proposed structure will have the right to unlimited use of those facilities in a dwelling upon the same lot.

(4) The Planning Commission may impose any reasonable conditions deemed necessary to protect the public welfare. The violation of any such conditions shall automatically invalidate the permit. The permit issued shall clearly set forth that the structure proposed is intended for temporary dwelling purposes and that the authorized structure is to be vacated upon expiration of a specific time limit, not to exceed six months. Upon delivery of the permit, the occupant shall certify in a space allotted for the purpose that he or she has full knowledge of the terms of the permit that can be invoked for violation.

(Ord. passed 8-27-90) Penalty, see § 155.999

## ***OFF-STREET PARKING***

### **§ 155.175 PURPOSE.**

Parking spaces shall be provided and adequately maintained by each property owner in every zoning district for the off-street storage of motor vehicles for use by occupants, employees, and patrons of each building or structure constructed, altered or enlarged after the effective date of this chapter.

(Ord. passed 8-27-90)

### **§ 155.176 DEFINITION.**

**FLOOR AREA.** As applied to offices, merchandise, or service types of uses, shall mean the gross floor area used or intended to be used for services, but excluding floor area so restricted that customers, patients, clients, and the general public are denied access.

(Ord. passed 8-27-90)

## **§ 155.177 PARKING SPACE REQUIREMENTS.**

(A) Parking space for motor vehicles in all districts, in connection with every residential, institutional, recreational, instructional, cultural, commercial, and industrial land use shall be provided in accordance with the provisions set forth in this section.

(B) Dwelling: Two spaces for each dwelling unit or family in each building.

(C) Auto courts, hotels, motels: One space for each sleeping room, plus two spaces for operating personnel.

(D) Hospitals, sanitariums, nursing homes, homes for the aged: One space for every two beds in a hospital and one space for every four beds in other uses, plus one space for every doctor and one space for every two employees.

(E) Libraries, museums, post offices: One space for every 800 square feet of floor area, plus one space for every three employees.

(F) Schools: One space for every two employees, including administrators, teachers, and support personnel.

(G) Banks, business, and professional offices: One space for every 200 square feet of floor area.

(H) Retail Stores:

(1) Clothing, furniture, appliance, automobiles, machinery sales, wholesale sales: One space for every 800 square feet of floor area, plus one for every two employees.

(2) Supermarkets: One space for every 200 square feet of floor area.

(3) Barber and beauty shops: Two spaces for every chair, plus one space for each employee.

(4) All other retail stores: One space for every 400 square feet of floor area, plus one space for every two employees.

(I) Restaurants, cafeterias: One space for every five patron seats, plus one space for every four seats, plus one space for every two employees.

(J) Places of public assembly (churches, stadiums, theaters, and the like): One space for every four seats, plus one space for every two employees.

(K) Industrial establishments: One space for every two employees or one place for every 200 square feet of gross floor area, whichever provides the greater parking accommodation.

(Ord. passed 8-27-90) Penalty, see § 155.999

## **§ 155.178 LOCATION OF PARKING AREA.**

(A) Off-street parking areas shall be located near the use they are intended to serve, as set forth in this section.

(B) All residential districts: Parking requirements shall be in the same lot for any use in a Residential District.

(C) Commercial uses: One the same lot or on immediate premises of the developed site; must be within 500 feet, measured from the nearest point of the parking lot to the nearest pedestrian entrance and exit to the building.

(D) Public and quasi-public buildings: On the premises or within 500 feet, measured from the nearest point of the parking lot to the nearest pedestrian entrance and exit to the building.

(E) Driveways and entrance/exit approaches: Shall be paved if the grade exceeds 8%.

(Ord. passed 8-27-90) Penalty, see § 155.999

## **§ 155.179 DESIGN AND CONSTRUCTION REQUIREMENTS.**

(A) The design and construction standards set forth in this section shall be followed in all off-street parking areas.

(B) A minimum of 280 square feet of surface shall be provided for vehicular parking, with each space being clearly designated and accessible separately from public streets or highway. Except by permission of the Planning Commission, the lot may be gravel, graded to specifications established by the City Council.

(C) Except for a parking space provided on residential lots, an access drive shall be provided, of not less than 20 feet wide.

(D) Except on R-1 lots, no parking lot shall be less than 1,000 square feet in area.

(E) Parking areas shall be surfaced with a material that will provide a durable and smooth surface and shall be graded and provided with adequate drainage facilities, all as approved by the City Manager.

(F) When a parking area for four or more vehicles adjoins a residential area, a buffer strip shall be attractively landscaped or provided between the parking area and the adjoining property. The buffer strip shall be attractively landscaped or provided with vertical screening, not less than eight feet in height.

(G) Parking area located on a commercially zoned parcel shall be at least 20 feet from any residentially zoned parcel.

(H) If any parking area on a commercially zoned parcel is to be located in the yard adjacent to a residentially zoned parcel, the parking area shall be screened either

by an eight-foot fence or wall or by evergreen shrubbery at least four feet in height at planting time, which is located in and for the full length of the area separating the parking area from the adjacent residential zoned parcel lot line. Spacing of shrubbery, as well as variety of shrubbery used, will be determined by the Planning Commission.

(l) Paved parking may be required if drainage or dust problems arise that constitute a public nuisance or a hazard to public health or safety.

(Ord. passed 8-27-90) Penalty, see § 155.999

## **§ 155.180 INCREASES IN PARKING AREAS.**

Any increase in effective capacity of any premise use for which off-street parking is required, shall be accompanied by the provision and maintenance of parking space in proper ratio to the increased ratio.

(Ord. passed 8-27-90)

## **§ 155.181 JOINT USE OF PARKING AREAS.**

In situations where joint use of parking facilities by two or more uses is practicable and satisfactory to each of the uses intended to be served, joint use of parking facilities shall be approved by the Planning Commission.

(Ord. passed 8-27-90)

## ***LOADING-UNLOADING SPACE REQUIREMENTS***

### **§ 155.195 PURPOSE.**

In order to prevent undue interference with public use of streets and alleys, every manufacturing storage, warehouse, department store, wholesale store, retail store, market, motel, hotel, hospital, laundry, dry cleaning, dairy, mortuary, and other uses similarly and customarily receiving and distributing goods by motor vehicle, shall provide space on the premises for that number of vehicles that will be on the premises at the same time on an average day of full use. Every building, housing such a use, and having over 5,000 square feet of gross floor area, shall provide at least one truck standing, loading, and unloading space on the premises, not less than 12 feet in width, 60 feet in length, and 14 feet in height.

(Ord. Passed 8-27-90) Penalty, see § 155.999

## **§ 155.196 STORAGE OF REFUSE.**

All space required for the accumulation and out-loading of garbage, trash, scrap, waste products, and empty containers within Residential or Commercial Districts, shall be provided entirely within a building or screened area.

(Ord. passed 8-27-90) Penalty, see § 155.999

## **§ 155.197 ACCESS TO TRUCK STANDING, LOADING, AND UNLOADING SPACE.**

Access shall be provided directly from a public street or alley, or from any right-of-way that will not interfere with public convenience and that will permit orderly and safe movement of truck vehicles.

(Ord. passed 8-27-90)

## **§ 155.198 ADDITIONAL AREA TO PARKING SPACE.**

Loading space as required under this subchapter shall be provided as an area additional to off-street parking space.

(Ord. Passed 8-27-90)

# ***STORAGE OF VEHICLES, EQUIPMENT, AND REFUSE***

## **§ 155.210 PURPOSE.**

It is the intent of the City Council to protect the public health and safety and preserve property values through the regulation of abandoned vehicles, refuse, debris, and public nuisances on private property.

(Ord. passed 8-27-90)

## **§ 155.211 ENFORCEMENT.**

It shall be the duty of the Police Chief, and his proper officials and agents, to enforce the provisions of this subchapter.

(Ord. passed 8-27-90)

## **§ 155.211 ENFORCEMENT.**

It shall be the duty of the Police Chief, and his proper officials and agents, to enforce the provisions of this subchapter.

(Ord. passed 8-27-90)

## **§ 155.212 CERTAIN CONDITIONS PROHIBITED.**

(A) No inoperable or partially dismantled motor vehicles, or parts thereof, shall be parked, stored, or permitted to remain on any premises in the city, except those parked or stored within an enclosed building.

(1) Provided, inoperable vehicles may be permitted to remain on private property for a period of not more than 30 days if the owner is repairing or about to have the vehicles repaired, but in no event shall be vehicles remain for a period to exceed 30 days.

(2) Provided, also, that tires or parts of vehicles being removed, replaced, or installed by the occupant working on his/her vehicle on private property, may be reasonably stored in an orderly manner on the premises, but for a period not to exceed 30 days. Parts or tires to be discarded shall be removed within one week after removal from the vehicle.

(B) The presence of an inoperable, dismantled, or partially dismantled motor vehicle on private property contrary to the provisions of this subchapter, is hereby declared to be a public nuisance.

(C) No refuse or debris of any kind or nature that might constitute a hazard or safety, or substantially detract from the appearance of the immediate neighborhood, shall be stored on private property.

(D) Refuse and debris will be considered stored when it remains unmoved on private property for more than 30 days and creates a health and safety hazard, or substantially detract from the appearance of the immediate neighborhood.

(E) The presence of refuse and debris that creates a health or safety hazard, or substantially detracts from the appearance of the immediate neighborhood, contrary to the provisions of this subchapter, is hereby declared to be a public nuisance.

(F) No person shall construct upon, excavate or cause another to construct upon or excavate any property without providing adequate safeguards for the general public in the form of signs, barricades, fences, barriers, or any other device that will ensure protection of the general public.

(G) No person shall abandon a construction project or excavation in a manner that it would be likely to endanger the safety of the general public.

(H) The Police Chief, or his designated agent, will determine if the excavation is a safety hazard, but this will not exempt the person or agent in charge of construction or excavation from providing adequate protection, without the direction of the Police Chief or his designated agent.

(I) The violation of construction or excavation procedures, as described above, is hereby declared to be a public nuisance.

(J) All wood and/or log piles are prohibited from placement in front yards. Wood and/or log piles are permitted only in side or rear yards and shall be placed no closer than five feet from any lot line or public right-of-way.

(K) Any site that causes soil deposits to wash or blow on a sidewalk, street, highway, or neighboring property, is hereby declared to be a public nuisance.

(Ord. passed 8-27-90) Penalty, see § 155.999

### **§ 155.213 NOTICE OF VIOLATION.**

The city will notify, by certified mail, any person or agent deemed in violation of any of the provisions of this subchapter, containing a description of the violation, what must be done to correct the violation, and a date specified for compliance with this subchapter.

(Ord. passed 8-27-90)

### **§ 155.214 REMEDY.**

If the violation has not been corrected within the time specified in the notice, the city is authorized to take any corrective measures necessary to ensure compliance with the provisions of this subchapter, and charge the person or agent for the costs of remedy necessary to correct the violation of the provisions of this subchapter.

(Ord. passed 8-27-90)

### **§ 155.215 APPEAL.**

Upon written request to the City Manager, exemption in writing may be made under special circumstances which would prohibit or make impracticable the enforcement of any portion of this subchapter. The granting or rejection of this request will be at the discretion of the Planning Commission.

(Ord. passed 8-27-90)

### **§ 155.216 DESIGNATIONS OF OTHER PROHIBITIONS.**

The City Manager shall have the power to designate as public nuisances other situations that would create hazards to health and public safety, and prohibit them. These nuisances shall be subject to the penalties provided in this subchapter.

(Ord. passed 8-27-90)

## ***FENCES AND OBSCURING WALLS***

## **§ 155.230 BUILDING PERMIT REQUIRED.**

No fence or obscuring wall shall hereafter be erected or altered within any district, without first obtaining a building permit from the Building Inspector.

(Ord. passed 8-27-90) Penalty, see § 155.999

## **§ 155.231 PLACEMENT AND HEIGHT.**

(A) Front yard. No fence shall be erected on the front lot line which exceeds 36 inches in height, or be placed within a distance of one foot from the inside sidewalk line.

(B) Side yard. No fence shall be erected on the side yard lot line which exceeds six feet in height; provided, that no fence exceeding 36 inches in height above the establishment grade shall be erected or maintained nearer the front property line than the front line of the main dwelling thereon.

(C) Rear yard. No fence shall be erected on the rear lot line which exceeds six feet in height.

(D) Corner lots. No fence over 36 inches in height above the established sidewalk grade shall be permitted within 20 feet of any such street intersection, so as to interfere with traffic visibility and no fence shall be located nearer than one foot to the inside sidewalk line.

(Ord. passed 8-27-90) Penalty, see § 155.999

## **§ 155.232 OPENINGS AND CONSTRUCTION REQUIREMENTS.**

(A) Those walls and screening barriers shall have no openings, except for pedestrian use, not to exceed four feet in width. All walls required in this chapter shall be constructed of materials, approved by the Building Inspector, to be durable, weather-resistant, rustproof, and easily maintained.

(B) Masonry walls shall be erected on a concrete foundation which shall have a minimum depth of 48 inches below a grade approved by the Building Inspector and shall be less than four inches wider than the width of the wall to be erected.

(C) Masonry walls may be constructed with openings which do not, in any square section (height and width), exceed 20% of the surface. Where walls are so pierced, the openings shall be placed as to maintain the obscuring character required, and shall not reduce the minimum height requirement. The arrangement of the openings shall be reviewed by the Building Inspector.

(Ord. passed 8-27-90) Penalty, see § 155.999



## **§ 155.233 POSITION OF FINISHED SIDE.**

(A) The finished side of any fence shall face away from the structure to be fenced in (the finished side shall face the neighbors).

(B) All cyclone fences shall have the finished edge on the top side.

(Ord. passed 8-27-90) Penalty, see § 155.999

## **§ 155.234 MAINTENANCE AND REPAIR; NUISANCE.**

(A) Fences must be maintained so as not to endanger life or property. The use of barbed wire, without permission from the Planning Commission, is expressly prohibited. Any fence which through lack of repair, type of construction, or otherwise imperils life or property shall be deemed a nuisance. The Building Inspector shall notify the owner of the property upon which the fence is located, of the existence of such a nuisance and that the nuisance must be abated. Notice shall be sent by certified mail, specifying the work to be done and the deadline for the conditions of this subchapter to be met. All expenses thereof shall be assessed to the owner for work conducted by the city if compliance of the notice is not met by the deadline.

(B) Any failure to comply with the requirements of this notice shall be punishable by those city authorities.

(Ord. passed 8-27-90) Penalty, see § 155.999

## ***SITE PLAN REVIEW***

### **§ 155.245 PURPOSE.**

The purpose of the site plan review is to assure, at the time of developmental planning, compliance with the city requirements, as well as the on- and off-site impacts of the proposed development in relation to storm drainage capacity and design, provisions of adequate water supply and sanitary wastewater disposal systems and other public utilities, accessibility to and circulation upon the site for vehicular and pedestrian traffic, off-street parking and loading/unloading and other site and structural design elements that would result in use and activity upon the slot or parcel, which may have an adverse effect upon the public health, safety and general welfare of the surrounding area, if not properly evaluated prior to development of construction.

(Ord. passed 8-27-90)

### **§ 155.246 USES REQUIRING SITE PLAN REVIEW.**

(A) The land, building and structural uses set forth in this section require site plan review and approval.

(B) A building containing two or more dwelling units.

(C) Manufactured (mobile) home park.

(D) Any principle nonresident structure and/or addition thereto, permitted in any Residential District and any principal building or structure and/or addition thereto, except single-family residences.

(E) Public utility buildings and structures.

(F) Any parking lot or addition thereto containing five or more parking spaces, when not a part of a development or use for which the site plan review and approval is required elsewhere in this chapter.

(G) All permitted principal and special uses in the following districts:

(1) C-1: Neighborhood Commercial

(2) C-2: Downtown/Highway Commercial

(3) I: Industrial

(4) P.U.D.: Planned Unite Development

(5) O: Open Land

(H) Subdivisions.

(I) All special uses.

(J) Any mineral or natural resources extraction operation.

(Ord. passed 8-27-90)

## **§ 155.247 PROHIBITIONS PRIOR TO SITE PLAN APPROVAL.**

No grading, removal of vegetation, filling of land, or construction shall commence for any development, for which site plan review and approval is required until a site plan is approved and is in effect. Any violation of this prohibition shall be subject to the legal and administrative procedures and penalties as established by the City Council.

(Ord. passed 8-27-90) Penalty, see § 155.999

## **§ 155.248 PREAPPLICATION CONFERENCE; STAFF.**

Prior to the submission of an application, a pre-application conference shall be held between the applicant and the City Manager to discuss the proposed development, submittal requirements, and procedures, the requirements of this section, and other applicable matters.

(Ord. passed 8-27-90)

## **§ 155.249 APPLICATION FOR SITE PLAN APPROVAL.**

Any person having legal ownership interest in a lot may apply for site plan approval, by filing completed forms, paying required fees, and submitting four copies of the site plan to the City Clerk at least 15 days prior to the date of the Planning Commission meeting during which time the site is to receive its first formal review.

(Ord. passed 8-27-90)

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(Ord. passed 8-27-90)

## **§ 155.250 INFORMATION REQUIRED WITH OR ON THE SITE PLAN.**

(A) Each site plan submitted for review shall provide the following information:

(1) Scale, north arrow, name, date of plan, as well as any dates of revisions thereto.

(2) Name and address of property owner and applicant, as well as name and address of developer.

(3) The applicant's ownership interest in the property, and if the applicant is not the fee simple owner, a signed authorization from the owner of the application.

(4) Name and address of designer. A site plan may be prepared by the applicant. It is recommended, however, that it be prepared by a professional community planner, engineer, architect, landscape architect, or land surveyor registered in the state.

(5) A vicinity map; legal description of the property; dimensions and lot area. Where a metes and bounds description is used, lot line angles or bearings shall be based upon a boundary survey prepared by a registered land surveyor and shall correlate with the legal description.

(6) Existing topography with minimum contour intervals of two feet; existing natural features such as trees, wooded areas, streams, marshes, ponds, and other wetlands; clear indication of all-natural features to remain and be removed. Groups of trees shall be shown on an approximate outline of the total vegetational canopy; individual deciduous and evergreen trees of six-inch diameter or larger, where not a part of a group of trees, shall be accurately located on the final site plan. A written

report of the areas to be changed shall include their effect on the site and adjacent properties.

(7) Existing buildings, structures, and other improvements, including drives, utility poles, and towers, easements, pipelines, excavations, ditches with their elevations and drainage directions, bridges, and culverts.

(8) General description of deed restrictions, protective covenants, or other legal agreements or encumbrances upon the property.

(9) Owner, use, and zoning classification of adjacent properties, location and outline of buildings, drives, parking lots, and other improvements on adjacent properties.

(10) The method to be used to control any increase in effluent discharge to the air or any increase in noise level emanating from the site. A written description of any nuisance that would be created within the site, or external to the site, whether by dust, noise, fumes, vibration, smoke, or lights, including how the nuisance shall be controlled.

(11) Existing public utilities on or serving the property/location and the size of water lines and hydrants; location, size, and inverts of sanitary sewer and storm sewer lines; location of manholes and catch basins; location and size of well, septic tanks and drain fields, when required.

(12) Name and right-of-way of existing streets, private roads, and/or recorded easements, including elevations at intersections with streets and drives of the proposed development.

(13) Zoning classification of the subject property; location of required yards; total ground floor area and percent of lot coverage; floor area to ratio. In the case of residential units, the plan shall not have dwelling unit density, lot area per dwelling unit; and a schedule of the number, size, and type of dwelling units.

(14) Grading plan, showing finished contours at a minimum interval of two feet and correlated with existing contours, so as to clearly indicate cut and fill required. All finished contour lines are to be connected to existing contour lines at or before the property lines.

(15) Location and exterior dimensions of proposed buildings and structures, with the location to be referenced to property lines, or lines to a common base point; distances between buildings, height in feet, and number of stories; finished floor elevations; ground grade elevation; and all required setbacks.

(16) Location and alignment of all proposed streets and drives; right-of-way, where applicable, and typical cross-section of same showing surface, base, and sub-base materials, and dimensions; location and typical details of curbs; turning lanes, with details; location, width, surface elevations and grades of all entries and exits and curve radii.

(17) Location and dimensions of proposed parking lots; the number of spaces in each lot; dimensions of space and aisles; drainage patterns of lots; typical cross-section of same showing surface, base, and sub-base materials; angles of spaces. Include provision of snow storage area, representing 10% of total parking area.

(18) Location and size of proposed improvements of open space and recreation areas, and statement on proposed maintenance provisions for those areas.

(19) Location, width, and surface of proposed sidewalks and pedestrian ways.

(20) Location and type of proposed outdoor trash container enclosures; size, typical elevation, and vertical section of enclosures, showing material and dimensions.

(22) Location, type, size, area, and height of proposed signs.

(23) Layout, size of lines, inverts, hydrants, drainage flow patterns, location of manholes and catch basins for proposed sanitary sewer, water and storm drainage utilities; location and size of retention ponds and degrees of slope of sides of ponds; calculations for size of storm drainage facilities; location of electricity and telephone poles and wires; location and size of surface-mounted equipment for electricity and telephone services; location and size of underground tanks, where applicable; location and size of outdoor incinerators; location and size of wells, septic tanks, and drainage fields, where applicable. Final engineering drawings for all site improvements such as, but not limited to, water, sanitary sewer, and storm sewer systems; streets, drives, and parking lots retention ponds, and other ponds or lakes; retaining walls; shall be submitted to and approved by the Planning Commission prior to approval of the final site plan. If on-site water and sewer facilities are to be used, a letter of approval of same, or a copy of the permit from the County Health Department, the Michigan Department of Natural Resources, or another appropriate agency shall be submitted to the Planning Commission prior to the Planning Commissions approval of the final site plan.

(24) Landscape plan showing location and size and name of plant materials.

(25) Description of measures to be taken to control soil erosion and sedimentation during and after completion of grading and construction operations. Recommendations from those measures may be obtained from the County Drain Commissioner or Soil District office.

(26) Location of proposed retaining walls, including dimensions and materials of same; fill materials; typical vertical sections; restoration of adjacent properties, where applicable.

(27) Location, type, direction, and intensity of outside lighting.

(28) Right-of-way expansion, where applicable; reservation of dedication of rights-of-way to be clearly noted.

(29) Location of underground transportation pipelines.

(30) There shall be room allowed for an alternative tile field on each lot or parcel approved to have a septic tank.

(31) Development and use of the land, buildings, or structures shall not, in any way, increase surface water runoff to adjacent property owners.

(32) The planned number of people to be housed and employed; visitors or patrons; and vehicular and pedestrian traffic flow.

(33) Loading/unloading and parking requirements shall correspond to the conditions listed in §§ 155.175 through 155.198, related to the proper zoning designation.

(Ord. passed 8-27-90)

## **§ 155.251 PUBLIC HEARING.**

Prior to voting on a final site plan, the Planning Commission shall schedule and hold a public hearing, so as to facilitate public review and understanding of the development proposed. Notice of the date, time, location, and subject matter of the public hearing shall be published in a newspaper of general circulation in the city, not less than eight days before the actual hearing date as established by the Planning Commission.

(Ord. passed 8-27-90)

## **§ 155.252 STANDARDS DOR SITE PLAN REVIEW.**

(A) In reviewing the site plan, the Planning Commission shall determine that the following standards are observed:

(1) All information has been required.

(2) The proposed development conforms to all regulations of the zoning district in which it is located.

(3) The applicant may legally apply for site plan review.

(4) The plan meets the requirements of the city for fire and police protection, water supply, sewage disposal or treatment, storm drainage, and other public facilities and services.

(5) Soils not suited for development will be protected or altered in an acceptable manner.

(6) The proposed development will not cause erosion or sedimentation problems.

(7) The proposed development does not illegally impinge upon established food plains, located on or near the subject property.

(8) The drainage plan for the proposed development is adequate to handle anticipated stormwater runoff and will not cause undue runoff into neighborhood property, or the overloading of watercourses in the area.

(9) The proposed development is coordinated with public improvements serving the subject property and with the other developments in the general vicinity.

(10) Outside lighting will not adversely affect adjacent or neighboring properties or traffic on adjacent streets.

(11) Outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.

(12) Grading or filling will improve the character of the property or the surrounding area and will not adversely affect the adjacent or neighboring properties.

(13) Vehicular and pedestrian traffic within the site, as well as to and from the site, are both convenient and safe.

(14) Parking layout will not adversely affect the flow of traffic within the site or impede access to and from the adjacent streets and adjacent properties, and that snow storage area has been provided to equal 10% of total parking area.

(15) The plan meets the required standards of other governmental agencies, where applicable, and the approval of these agencies have been obtained.

(16) The plan provides for the proper continuation and expansion of existing public streets serving the site, where applicable.

(17) All phased developments are to be constructed in logical sequence, so that any individual phase will not depend, in any way, upon a subsequent access, public utility services, drainage, or erosion control.

(18) When required, landscaping, fences, and walls in pursuance of these objectives and same shall be provided and maintained as a continued maintenance of any use to which they are appurtenant.

(19) The Planning Commission shall have some latitude in specifying the walls, fences, greenbelts as they apply to a phased development if the particular phase of development and construction work is far enough from adjacent properties so as not to require the screening and the like.

(20) The proposed site must be in accord with the spirit and purpose of this chapter and not be inconstant with, or contrary to, the objectives sought to be accomplished by this chapter and principles of sound city and site planning.

(21) Adequate assurances have been received from the applicant so that clearing the site of topsoil, trees and other natural features before the commencement

of building operations, will occur only in those areas approved for the construction of physical improvements. Areas to be left undisturbed during construction shall be so indicated on the site plan and shall be so identified on the ground, so as to be obvious to construction personnel.

(22) The development will not substantially affect the natural retention storage capacity of any water impoundment area or watercourse, thereby possibly increasing the magnitude and volume of flood at other locations or thereby possibly decreasing the volume of natural water supply at other locations.

(23) The soil and subsoil conditions are suitable for excavation and site preparation and the drainage is designed to prevent erosion and environmentally deleterious surface runoff.

(24) The development will not detrimentally affect or destroy natural features such as ponds, streams, wetlands, hillsides, or wooded areas, but will preserve and incorporate those features into the development's site design.

(25) The location of natural features and the site topography have been considered in the designing and siting of all physical improvements.

(26) All loading/unloading requirements must be met.

(Ord. passed 8-27-90)

## **§ 155.253 PLANNING COMMISSION ACTION.**

(A) The Planning Commission shall study the site plan and shall, within 60 days of the filing date upon which it appears on the Commission agenda (if the submitted application is complete), make its recommendation to approve or reject the site plan. This time limit may be extended upon mutual agreement between the applicant and the Commission.

(B) The Commission may require such changes in the proposed site plan as are needed to gain approval. The Commission may attach reasonable conditions to its approval.

(C) The Commission shall include in its study of the site plan consultation with the City Manager and other governmental officials, departments, and public utility companies that might have an interest in or be affected by the proposed development.

(D) Upon Commission approval of a site plan, the applicant, the owner of record or the legal representative thereof, the Commission Chairperson, and one other member of the Commission shall each sign four copies of the approved site plan.

(E) The Commission shall transmit one signed copy of the plan and any conditions attached to the City Manager, and one copy each to the office of the City Clerk and the applicant. One signed copy shall be retained in the Planning Commissions files.



(F) The Planning Commission shall notify the applicant, in writing, of its recommendations and the reasons therefore, within ten days following the action.

(Ord. passed 8-27-90)

## **§ 155.254 EXPIRATION OF SITE PLAN APPROVAL.**

(A) Approval of a site plan shall expire and be invalid, unless a building permit has been issued, within 180 days of the date of the Planning Commission's approval of the site plan. Approval of a site plan shall expire and be invalid one year following the date of the Commission approval, unless construction has begun on the property and is being carried progressively to completion, in accordance with the approved site plan.

(B) Development shall, in any case, be completed within two years of the date of Commission approval of a site plan.

(C) In the case of a phased development (such as in P.U.D.-Planned Unit Developments) individual site plans shall be submitted and approved for the initial phase and, in turn, for each subsequent phase of development. If the one-year development completion requirement stated above is not met, relative to the initial (or any succeeding) phase, the Commission shall not review and approve site plans for phases subsequent to the incomplete phase, unless sufficient cause of the delay can be demonstrated.

(D) If any approved site plan has expired as set forth herein, no permits for development or use of the subject property shall be issued, until all applicable requirements of this subchapter have been satisfied.

(Ord. passed 8-27-90)

## **§ 155.255 AMENDMENT OF AN APPROVED SITE PLAN.**

(A) A development may request a change in an approved site plan. A change is an approved site plan which results in a major change, as defined in this subchapter, shall require an amendment. All amendments shall follow the procedures and conditions herein required for original plan submittal and review. A change which results in a minor change, as defined in this subchapter, shall require a revision by the Planning Commission to the approved plan.

(B) The Planning Commission shall have the authority to determine whether a requested change is major or minor, in accordance with this subchapter. The burden shall be on the applicant to show good cause for any requested change.

(C) A request for an amendment or a revision shall be made in writing to the Planning Commission and shall clearly state the reasons therefor. These reasons may be based upon considerations such as changing social or economic conditions, potential improvements in layout or design features, unforeseen difficulties or advantages mutually affecting the interests of the city of the developer, such as technical causes, site conditions, state or federal projections, and installations and

statutory revisions. The Planning Commission upon finding those reasons and requests reasonable and valid shall so notify the applicant in writing. The following payment of the appropriate fee, the developer shall submit the required information to the Planning Commission for review.

(D) Changes to be considered major (such as those for which an amendment is required) shall include honoring more of the following. The following list is not exclusive:

- (1) A change in the original concept of the development.
- (2) A change in the original use or character of the development.
- (3) A change in the type of dwelling units identified on the approved site plan.
- (4) An increase in the number of units planned.
- (5) An increase in nonresidential floor area of over 5%.
- (6) Rearrangement of lots, blocks, and building tracts.
- (7) A change in the character or function of any street.
- (8) A reduction in the amount of land set aside as common space or the relocation of those areas.
- (9) An increase in building height.

(E) A developer may request Planning Commission approval of minor changes, as defined in this subchapter, and an approved site plan. The Commission shall notify other applicable agencies of its approval of those minor changes. The revised drawings, as approved, shall be signed by the petitioner and the owners of that property in question.

(F) Minor changes shall include the following and may be approved by the City Manager. The following list is not exclusive:

- (1) A change in residential floor area.
- (2) An increase in nonresidential floor area of 5% or less.
- (3) Minor variations in layout of the building or site which do not constitute major changes.

(Ord. passed 8-27-90)

## **§ 155.256 MODIFICATIONS OF PLAN DURING CONSTRUCTION.**

All site improvements shall conform to the approved site plan, including engineering drawings approved by the Planning Commission. If the applicant makes any changes during construction in the development, in relation to the approved site

plan, these changes shall be made at the applicant's risk, without any assurances that the Planning Commission or any other agency will approve the changes. The applicant may be required to correct the unapproved changes, so as to conform to the approved site plan.

(Ord. passed 8-27-90)

## **§ 155.257 AS-BUILT DRAWINGS.**

(A) The requirements set forth in this section shall prevail as-built drawings to the City Manager.

(B) The applicant shall provide as-built drawings of all sanitary sewer, water, and storm sewer lines and all appurtenances which were installed on a site for which a final site plan was approved. The drawings shall be submitted to the Planning Commission and shall be approved after review by the City Manager, and prior to the release of any performance guaranteed or part thereof covering those installations.

(C) The as-built drawings shall show, but shall not be limited to, such information as the exact size, type, and location of pipes; location and size of manholes and catch basins; location and size of valves, fire hydrants, tees, and crosses; depth and slopes of retention basins; and location and type of utility installations. The drawings shall show plan and profile views of all sanitary and storm sewer lines and plan reviews of all water lines.

(D) The as-built drawings shall show all work completed within a public right-of-way and public utility easements as actually installed and field verified by a professional engineer or a representative thereof. The drawing shall be identified as "As-Built Drawings" in the title block of each drawing and shall be signed and dated by the owner of the development or the owner's legal representative, and shall bear the seal of a professional community planner, engineer, architect, landscape or land surveyor.

(Ord. passed 8-27-90)

## **§ 155.258 PHASING OF DEVELOPMENT.**

The applicant may divide the proposed development into two or more phases. In that case, each phase-specific site plan shall cover only that portion of the property involved. A final state plan shall be submitted for review and approval for each phase.

(Ord. passed 8-27-90)

## **§ 155.259 INSPECTION.**

(A) The City Manager or a designee shall be responsible of inspecting for conformance with the approved final site plan.

(1) All subgrade improvements such as sub-base installations for drives and parking lots and similar improvements shall be inspected and approved by appropriate agencies prior to covering.

(2) The applicant shall be responsible for requesting the necessary inspections.

(B) The City Manager shall obtain inspection assistance from the appropriate city official and consulting professional personnel where appropriate.

(C) The City Manager shall notify the Planning Commission in writing when a development, for which a final site plan is approved, has passed inspection with respect to the approved site plan.

(D) The City Manager shall notify the Planning Commission in writing when a development, for which a final site plan is approved, has failed inspection with respect to the approved site plan, and shall advise the Planning Commission of steps to be taken to achieve compliance. In that case, the City Manager shall periodically notify the Planning Commission of progress toward compliance with the approved site plan and when compliance is achieved.

(Ord. passed 8-27-90)

## **§ 155.260 GUARANTEES.**

(A) Guarantees as required by the City Council shall be provided by the applicant to the office of the City Treasurer. The guarantee shall be provided after a final site plan is approved; the guarantee shall cover all aspects of site improvements shown on the approved final site plan, including buildings, streets, drives, parking lots, sidewalks, grading, required landscaping, required screens, storm drainage, exterior lighting and utilities for a period of one year after acceptance by the city.

(B) The applicant shall provide a cost estimate of the improvements to be covered by the guarantee and the estimate shall be verified as to the amount by the City Manager. The form of guarantee must be approved by the City Attorney.

(C) If the applicant shall fail to provide any site improvements according to the approved plans within that time period specified in the guarantee, the Planning Commission shall have the authority to have that work completed. The City Treasurer, with the assistance of the Planning Commission, may reimburse the city for cost of the work, including administrative costs, by appropriating funds from the deposited security, or may require performance by the bonding company.

(D) The City Treasurer, with the assistance of the Planning Commission, shall determine the means of rebating portions of the deposit in proportion to the amount of work completed on the required improvements. All required inspections for improvements, for which cash deposit is to be rebated, shall have been completed before any rebate shall be made.

(Ord. passed 8-27-90)

## **§ 155.261 FEES.**

Fees for the review of site plans and inspections, as required by this subchapter, shall be established and may be amended by resolution of the City Council.

(Ord. passed 8-27-90)

## **§ 155.262 VIOLATIONS.**

The approved site plan shall become part of the record of approval; and subsequent action relative to the site in question shall be consistent with the approved site plan, unless the pertinent administrative body agrees to those changes, as are provided for in this subchapter. Any violations of the provisions of this subchapter, including any improvement not in conformance with the approved final site plan, shall be deemed a violation of this subchapter and subject to all penalties specified herein.

(Ord. passed 8-27-90) Penalty, 155.999

# **VARIANCES**

## **§ 155.275 PURPOSE.**

The Zoning Board of Appeals shall have the power to authorize, upon an appeal, specific variations from those dimensional requirements as lot width and area regulations, building height and bulk regulations, yard width and depth regulations, setbacks, and other provisions requirements such as off-street parking and loading space, as specified in this chapter, when all of the conditions in the following are satisfied.

(Ord. passed 8-27-90)

## **§ 155.276 CONDITIONS.**

(A) The conditions set forth in this section shall constitute consideration for variance.

(B) Dimensional zoning requirements cannot be physically met by an existing lot due to narrowness, shallowness, irregular shape or topography, or natural characteristics of the site that inhibit the lawful location of a structure or its accessory.

(C) The physical hardship is unique and not shared by neighboring properties in the same zone. If the Zoning Board of Appeals finds that the hardship is not unique, but common, amending the chapter or rezoning shall be pursued.

(D) The practical difficulty was not created by an action of the applicant and either existed at the time of adoption of the requirement from which the variance is requested, or is necessary as a result of a government action.

(F) The conditions upon which the petition for variance is based would not be applicable to other property within the same zoned district.

(G) The purpose of the variance request is not based merely upon a desire to generate greater revenue out of the property.

(H) The variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood, in which the property is located.

(I) The variance will not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in public streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood.

(J) The variance is the minimum necessary to permit reasonable use of the land and building.

(Ord. passed 8-27-90)

## **§ 155.277 RULES FOR GRANTING OF VARIANCE.**

(A) In addition to the foregoing conditions, the following rules shall be applied in the granting of variances:

(1) In granting a variance, the Zoning Board of Appeals shall specify, in writing, to the applicant, those conditions in connection with the granting that will, in its judgment, secure substantially the objectives of the regulation or provision to which that variance applies. The breach of any condition automatically invalidates the permit granted.

(2) Each variance granted under the provisions of this chapter shall become null and void, unless:

(a) The construction authorized by that variance or permit has been commenced within 90 days after the granting of the variance and is being carried progressively to completion.

(b) The occupancy of land, premises, or buildings authorized by the variance as taken place within one year after the variance was granted.

(3) No application for variance which has been denied wholly or in part by the Board, shall be resubmitted for a period of one year from the days of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions, found upon inspection by the Board to be valid.

(B) Under all these circumstances, the only reduction or modification that shall be authorized, is that necessary to overcome the evidence difficulty; or as specifically

authorized in other sections of this chapter, but in no case, shall the requirements be reduced by more than 50%, except that the Board may permit construction beyond the front yard setback where 60% of the buildings on the same block frontage do not meet the current standards, up to the average setback of all buildings, excluding accessory structures, on that block front.

(Ord. passed 8-27-90)

## **§ 155.278 BOND FOR COMPLIANCE.**

In authorizing any variance, the Zoning Board of Appeals may require that a bond of ample sum, but not exceed \$5,000, be furnished to ensure compliance with the requirements, specifications, and conditions imposed by the stipulated time. Any infraction or violation of the provisions of any variance shall cause the City Manager to proceed under provisions of the Zoning Board of Appeals to complete and ensure compliance.

(Ord. passed 8-27-90)

## ***ADMINISTRATION AND ENFORCEMENT***

### **§ 155.290 ADMINISTRATING AUTHORITY; RESPONSIBILITIES.**

(A) The provisions of this chapter shall be administered by the City Planning Commission in accordance with the State Municipal Planning Commission Act, Act 285 (M.C.L.A. § 125.31 et al and MSA 5.2931 et al) of the Public Act of 1931, as amended, and the provisions of Act 207 (M.C.L.A. § 125.581 et al and MSA 5.2931 et al) of the Public Act of 1921, as amended, where and is possible, is also relied upon as statutory authority.

(B) Responsibilities.

(1) The Commission must prepare and adopt a Master Plan to development in the city; a zoning map considered an element of the Master Plan.

(2) The Commission shall prepare the zoning code in accordance with state laws.

(3) The Commission advises the City Council concerning future amendments, changes, additions, or departures from this chapter.

(4) The Commission shall review proposed site plans, special land use requests, and planned unit developments (P.U.D.s) for the compliance with standards stated in this chapter.

(5) A minimum of one regular public meeting shall be held each month.

(Ord. passed 8-27-90)

## § 155.291 ZONING FEES; WHEN DUE.

(A) For each application for rezoning, variance request, conditional use, or home occupation permit, the following fees shall be paid to the City Clerk, which includes administrative and mailing costs. All advertising costs shall be the responsibility of the applicant.

<i>Land Use Request</i>	<i>Fee</i>
Rezoning	\$20
Variance request	20
Conditional use permit	15
Home occupation permit	5

(B) The required fee shall be paid in full at the time of application. No application shall be considered, or permit granted, by the Planning Commission until that fee is paid in full. No fees are refundable for any processing or partial processing of a development plan.

(Ord. passed 8-27-90)

## § 155.292 SITE PLAN REVIEW FEES; WHEN DUE.

(A) For each application for site plan review, the following fees, which include advertising, administrative, and mailing costs shall be paid to the City Clerk.

Zoning Amendment	\$25
Administrative approvals	25
Regular development	50
Major development	75
Vacation of subdivision or right-of-way	50
Revision to approved plans	
Regular development	\$25
Major development	100
Plus:	
Residential, per dwelling unit	5



Commercial, per gross acre	25
Industrial, per gross acre	25

(B) The required fee shall be paid in full at the time of application for approval of the development plan. No development plan shall be considered by the Planning Commission until that fee is paid in full. No fees are refundable for any processing or partial processing of a development plan.

(Ord. passed 8-27-90)

**§ 155.293 AMENDMENTS.**

Only the City Council may amend, supplement or change any of the regulations, provisions, and boundaries stated in this chapter. The exception to this is that the Zoning Board of Appeals, upon proper application, may allow any permitted structure to be built within ten feet of any Residential Zoning District, provided the contiguous property is being used for non-residential purposes (M.C.L.A. § 125.585; MSA 5.2935).

(Ord. passed 8-27-90)

**§ 155.294 WHEN VIOLATION A NUISANCE; INSPECTION; CORRECTION.**

(A) Violation a nuisance. Buildings erected, altered, moved, razed or converted, or any other use of land or premises carried on in violation of any provision of this chapter, are declared to be a nuisance per se. any and all building or land use activities considered possible violations of the chapter, observed by or communicated to Police or Fire Department employees, or to any city official, shall be reported to the City Manager.

(B) Inspection of violation. The City Manager shall inspect each alleged violation and shall order correction, in writing, of all conditions found in violation of this chapter.

(C) Correction period. All violations shall be corrected within a period of 30 days after the order to correct is issued, up to a maximum of six months, as permitted by the City Manager, a violation not corrected within this period shall be issued a zoning citation, remanding the violation of the local district court.

(Ord. passed 8-27-90)

**§ 155.295 ENFORCEMENT PROCEDURE.**

(A) In addition to the enforcement actions provided in the chapter, the additional enforcement procedures set forth in this section may be applicable in the instances of violations of provisions of the zoning code, approved special uses, approved planned

unit developments, approved site plans or decisions of the Zoning Board of Appeals, Planning Commission, City Council, district court to circuit court relative to a particular land use development or activity approved under the provisions of this zoning code.

(B) When a violation is initially determined by the City Manager, the Manager shall issue a "Notice of Zoning Ordinance Violation" to the owner and occupant of the lot or parcel upon which the zoning violation has occurred. This notice shall be issued on a special form for that purpose and shall at least include the following information pertinent to the violation:

(1) Date and location of each violation observed by the City Manager.

(2) Name and address of owner and occupant.

(3) Specific section of the zoning code which has been violated. If more than one violation, list each violation and each section violated.

(4) Length of time allowed before prosecution of the violations.

(C) Failing compliance by owner and occupant by specified date in division (A) of this section, the City Manager shall issue a "Second Notice of Zoning Ordinance Violation."

(D) Failure to comply with the procedures outlined in divisions (A) and (B) above, shall then, upon recommendation of the City Manager, result in the issuance of a "Notice of Show-Cause Hearing" by the City Council for a special hearing by interested parties on the violations.

(E) Failure to comply with procedures of divisions (A) through (C) above, shall then result in the issuance of a "Show-Cause Hearing, Finding Order" by the City Council. The show-cause hearing, finding, and order form shall indicate the findings of fact about the violation by the City Council, the Council's conclusions, and its order for compliance with the zoning code, with respect to each violation.

(F) Failure to comply with the above procedures outlined in divisions (A) through (D) of this section shall then be followed by the issuance of a "Zoning Ordinance Violation Appearance Ticket," permitted in accordance with Act 366 of the Public Acts of 1984, which amended Sections 9c and 9f of Chapter IV of Acts 175 of the Public Acts of 1927 (M.C.L.A. §§ 764.9c, 764.9f; MSA 28.868 [3], 28.868[6]), to the owner and occupant of the property upon which the violations occurred. The information contained on the Appearance Ticket shall be drafted by the City Attorney, submitted to the City Council for approval, and submitted to the presiding District Court Judge for approval and subsequent use by the city.

(Ord. passed 8-27-90)

## **§ 155.296 RIGHTS AND REMEDIES; SCOPE.**

(A) The City Manager, Zoning Board of Appeals, Planning Commission, City Council or the City Attorney, and any other interested party, may institute injunction,

mandamus, abatement, or other appropriate proceedings to prevent, abate, or remove any unlawful erection, maintenance or use. The rights and remedies herein provided are civil in nature and in addition to criminal remedies.

(B) The rights and remedies provided in this chapter are cumulative and are in addition to all other remedies provided by law. The court shall assess costs in a successful prosecution in an amount to compensate for all prosecution costs. All costs collected shall belong to the city and shall be deposited into the General Fund.

(Ord. passed 8-27-90)

### **§ 155.999 PENALTY.**

Every person, corporation, or firm who violates, disobeys, omits, neglects, or refuses to comply with any provision of this chapter, or any permit, license, or exception granted hereunder, or any lawful order of the City Manager, Zoning Board of Appeals, Planning Commission or the City Council issued in pursuance of this chapter shall be guilty of a misdemeanor. Upon issuance of a zoning citation, and conviction thereof, the violator shall be punished by a fine not to exceed \$500, or by imprisonment not to exceed 90 days or both. Every day during which a violation continues shall be deemed a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the provisions of this chapter.

(Ord. passed 8-27-90)