

**ARTICLE 21.00****GENERAL PROVISIONS****Section 21.01 -- CLASSIFICATION OF ANNEXED AREAS**

All territory annexed to the City of Walled Lake shall automatically be classified R1-A Single Family Residential, pending immediate review by the Planning Commission of use, zoning, and master plan considerations concerning such annexed territory. If deemed appropriate following such review, the Planning Commission may recommend zoning map revisions to the City Council.

**Section 21.02 -- ZONING OF VACATED STREETS**

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

**Section 21.03 -- USE REGULATIONS**

Except as otherwise provided herein, regulations governing land and building use are hereby established as shown on the Schedule of Regulations. Uses permitted in each district after special approval shall be permitted only in accordance with the Special Approval standards and procedures in Section 21.29 of this Ordinance.

**Section 21.04 -- GENERAL AREA, HEIGHT, BULK REGULATIONS**

Except as otherwise provided herein, regulations governing the minimum lot width, lot area per dwelling unit, required open spaces, height of buildings and other pertinent factors are as shown on the Schedule of Regulations.

**Section 21.05 -- LAND REQUIRED TO SATISFY REGULATIONS**

No portion of a lot used in or necessary for compliance with the provisions of this Ordinance shall through sale or otherwise be reduced beyond said minimums or again be used to satisfy the zoning requirements of another lot.

**Section 21.06 -- EXCEPTIONS TO HEIGHT LIMITS**

- A. The height limits of this ordinance may be modified by the Zoning Board of Appeals in its application to radio transmitting and receiving or television antennae, chimneys or flagpoles, church spires, belfries, cupolas, domes, water towers, observation towers, power transmission towers, radio towers, masts, aerials, smokestacks, ventilators, skylights, derricks, conveyors, cooling towers, and other similar and necessary mechanical appurtenances pertaining to the permitted uses of the districts in which they are located.
- B. The maximum height set forth in the Schedule of Regulations shall not apply to radio transmitting or television antennae that do not exceed the maximum permitted height of the building by more than 10 feet.

## **Section 21.07 -- CORNER LOT SETBACK ON THE SIDE STREET IN RESIDENTIAL ZONE DISTRICTS**

Every corner lot in any residential district which has on its side street an abutting interior residential lot, shall have a minimum setback from the side street equal to the minimum front setback for the district in which such building is located. Where there is no abutting interior residential lot on said side street, the minimum side street setback shall be 15 feet for the permitted principal building and 20 feet for permitted accessory buildings.

## **Section 21.08 -- OBSTRUCTIONS TO VISION ON CORNER LOTS**

On any corner lot in any district, no wall, fence or other structure, nor any hedge, shrub or other growth shall be maintained at a height which would obscure vision of drivers properly using the street. Any such structures or growth above a height of thirty (30) inches from the established street grades within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection shall be presumed an obstruction and shall be specifically prohibited.

## **Section 21.09 -- RESIDENTIAL ENTRANCEWAY**

In all residential districts, so-called entranceway structures, including but not limited to walls, columns and gates, marking entrances to single-family subdivisions or multiple housing projects may be permitted and may be located in a required yard, except as provided in Section 21.08, provided that such entranceway structures shall comply to all Codes and Ordinances of the City of Walled Lake, be approved by the Building Inspector and a permit issued.

## **Section 21.10 -- ACCESSORY BUILDINGS, STRUCTURES AND USES**

### **A. General Requirements**

#### **1. Timing of Construction**

No accessory use shall be established on a lot, and no accessory building or structure shall be occupied or used, unless there is a principal use already lawfully established on the same lot.

#### **2. Site Plan Approval**

If submission of a site plan for review and approval is required, then the site plan shall indicate the location and description of proposed accessory buildings, structures, or uses.

#### **3. Nuisances**

In residential districts, accessory uses such as animal enclosures, dog runs, central air conditioning units, heat pumps, and other mechanical equipment that typically produce noise, odors, or other nuisances, shall be located to the rear of the principal dwelling.

#### **4. Conformance with Lot Coverage Standards**

Accessory buildings and structures shall be included in computations to determine compliance with maximum lot coverage standards.

#### **5. Location in Proximity to Easements or Rights-of-Way**

Accessory buildings, structures, or uses shall not be located within a dedicated easement or right-of-way, unless otherwise permitted by the terms and conditions in the easement.

**6. Use of Accessory Structures**

Accessory buildings or structures in residential districts shall not be used as dwelling units or for any business, profession, trade or occupation.

**7. Applicability of Other Codes and Ordinances**

Accessory buildings and structures shall be subject to all other applicable codes and ordinances regarding construction, installation, and operation, including requirements for foundations and rat walls.

**B. Attached Accessory Buildings and Structures**

Accessory buildings or structures which are structurally attached to the principal building (such as an attached garage, breezeway, or workshop that is essentially a continuation of the principal building) shall be considered a part of the principal building for the purposes of determining conformance with area, setback, height, and bulk requirements.

**C. Detached Accessory Buildings and Structures****1. Location**

Detached accessory buildings and structures shall not be located in a front yard or a required side yard, except that on a lot that either abuts the lake or is across a street from the lake, one (1) accessory building or structure may be permitted in the front (i.e., on the side facing the road), provided further that any such accessory building or structure shall comply with the minimum setback requirements for the district in which it is located. Accessory buildings and structures shall not be permitted in a required waterfront yard. (See Section 21.45 for permitted projections into required yards.)

**2. Setbacks**

Detached accessory buildings and structures shall comply with the following setback requirements:

**a. Front Yard Setback**

Unless otherwise specified, when an accessory building or structure is permitted in the front yard it shall comply with the front yard setback requirement for the district in which it is located.

**b. Waterfront Yard Setback**

Accessory buildings and structures shall comply with the thirty (30)-foot waterfront setback requirement.

**c. Rear Yard Setback****(1) Residential Detached Accessory Buildings and Structures**

Detached accessory buildings and structures located on property that is zoned and used for residential purposes shall have a minimum rear yard setback of seven (7) feet.

**(2) Non-Residential Detached Accessory Buildings and Structures**

Detached accessory buildings and structures located on property that is zoned or used for non-residential purposes shall comply with the minimum rear yard setback requirements in Section 17.01 for the district in which it is located.

**d. Side Yard Setback**

Accessory buildings and structures shall comply with the side yard setback requirements for the district in which it is located.

e. Side Yard Setback on Corner Lots

When an accessory building, structure or use is located on a corner lot where the exterior side lot line of which is substantially a continuation of the front lot line of the lot to its rear, the accessory building, structure or use shall not project beyond the front setback required on the lot in the rear.

When an accessory building, structure or use is located on a corner lot where the side lot line of which is substantially a continuation of the side lot line of the lot to its rear, the accessory building, structure, or use shall comply with the required side setback for the district in which it is located, provided that in no case shall an accessory building, structure, or use be located nearer than twenty (20) feet to a street right-of-way.

f. Distance from other Buildings

Detached accessory buildings and structures shall be located at least ten (10) feet from any other building, except that a fifteen (15) foot setback shall be required for dumpsters and dumpster enclosures (see Section 21.39).

3. **Size**

Unless otherwise specifically permitted elsewhere in this Ordinance, the maximum combined ground area coverage of all accessory buildings and structures related to a principal residential use shall not exceed thirty percent (30%) of the rear yard, provided that the total ground area coverage of all accessory buildings shall not exceed 1,000 square feet or the total ground area coverage of the principal dwelling, whichever is greater.

In non-residential districts, the maximum combined ground area coverage of all accessory buildings, structures, and uses shall not exceed thirty percent (30%) of the total floor area of the principal building.

4. **Height**

Detached accessory buildings and structures in single and two-family districts shall not exceed eighteen (18) feet in height. Detached accessory buildings and structures in other than single and two-family districts shall comply with the height requirement for the district in which they are located.

5. **Number**

(a) Single and Two-Family Districts. Except where otherwise specified, not more than two (2) accessory buildings, structures, or uses shall be located on any lot, except that up to four (4) may be permitted on lots that exceed one (1) acre in size.

(b) Districts other than Single and Two-Family Districts. Except where otherwise specified, not more than two (2) accessory buildings, structures, or uses shall be permitted in districts other than single- and two-family districts.

6. **Mobile Home Parks**

Detached accessory buildings in mobile home parks shall comply with the setback and spacing requirements in the Mobile Home Commission Rules.

D. **Outdoor Seating And Outdoor Display Areas**

1. Outdoor seating shall be permitted in all nonresidential zoning districts as an accessory use, subject to the permit/licensing requirements of Chapter 18, Article X of the City Code of Ordinances.
2. Outdoor display areas shall be permitted in all nonresidential zoning districts as an accessory use, subject to the permit/licensing requirements of Chapter 18, Article X of the City Code of Ordinances.

## **Section 21.11 -- [RESERVED FOR FUTURE USE]**

## **Section 21.12 -- GRADES AND ELEVATION DIFFERENTIALS**

The grading of all building lots shall be such to (1) divert water away from buildings, and (2) prevent standing water and soil saturation detrimental to structures and use of the lot and surrounding property. Grading plans shall be subject to review by the City Engineer.

## **Section 21.13 -- FENCE, WALL AND PRIVACY SCREEN REGULATIONS**

Fences and walls shall comply with the following regulations:

### **A. Height, Location, Clearance.**

Fences and walls shall comply with the height, location, and clearance requirements specified in the attached table. Decorative fences are permitted to extend to the water's edge. No other type of fence is permitted in the waterfront yard.

### **B. General Requirements.**

#### **1. Application**

Applications for a permit shall be accompanied by a plot plan showing the location of the proposed fence or wall in relation to property lines and buildings on the subject property and adjacent properties. The applicant shall provide detailed specifications, such as height, type of materials, foundation of fence post anchoring, and surface treatment.

The application shall be accompanied by a fee as established by resolution by the City Council. A plot plan and separate application shall not be required if all such information has been provided on a site plan submitted for approval.

#### **2. Construction**

Fences shall be constructed of materials commonly used in conventional fence construction, such as wood or metal.

#### **3. Depth of Wall Foundations**

Wall foundations shall comply with Building Code requirements.

#### **4. Depth of Posts**

All fences shall be installed with posts sunk below the approved grade to a depth of no less than one-half of the height of the fence.

#### **5. Maintenance**

All fences and walls shall be maintained in good, safe, and stable condition in accordance with all municipal codes. Rotten, broken or missing components shall be replaced or repaired. As required, surfaces shall be painted, stained, or similarly treated.

**6. Permit Required**

It shall be unlawful to construct, erect, install, alter or to cause the construction, erection, installation or alteration of any fence or wall without first obtaining required permits.

**7. Orientation**

If, because of the design or construction, one side of a fence has a more finished appearance than the other, the side of the fence with the more finished appearance shall face the exterior of the lot.

**8. Vision**

All fences and walls shall comply with the requirements regarding obstructions to vision on corner lots in Section 21.08.

**9. Barbed Wire, Razor Wire**

Fences and walls shall not contain barbed wire, razor wire, electric current, or charge of electricity.

**10. Enclosure of Utility Facilities and Playgrounds**

The Zoning Board of Appeals may permit fences in front yards or exterior side yards in the I-1, Light public playgrounds that are available for general use in any district. Fences which enclose Industrial District or to enclose a playground shall not exceed seven (7) feet in height above grade, and shall not obstruct vision to an extent greater than twenty-five percent (25%).

**11. Pools**

State Law see Appendix G of current and prevailing building code.

**Section 21.13(a) -- FENCE AND WALL REQUIREMENTS (amended eff. Nov. 2000)**

	FENCES		DECORATIVE FENCES		WALLS	
	Maximum Height <sup>3</sup>	Permitted Location	Maximum Height <sup>4</sup>	Permitted Location	Maximum Height <sup>4</sup>	Permitted Location
Single Family	4.5 to 6.0 ft. <sup>2,6</sup>	No closer to front than any portion of the main building. <sup>1,10</sup>	36 in. <sup>3</sup>	Any Yard <sup>5</sup>	Not Permitted	Not Permitted
Multiple Family	6.0 ft. <sup>6</sup>	No closer to front than any portion of the main building. <sup>1,10</sup>	36 in. <sup>3</sup>	Any Yard <sup>5</sup>	6 ft. <sup>7</sup>	To the rear of the principal structure <sup>8</sup>
Commercial, Office	8.0 ft. <sup>9</sup>	Side or rear yard. <sup>1, 10</sup>	Not Permitted	Not Permitted	8 ft. <sup>7,9</sup>	Side or rear yard <sup>1</sup>
Industrial	8.0 ft. <sup>9</sup>	Side or rear yard. <sup>1, 10</sup>	Not Permitted	Not Permitted	8 ft. <sup>7,9</sup>	Side or rear yard <sup>1</sup>

Footnotes

1. May be located in the required side or rear yard, but on corner lots fences and walls shall be set back at least ten (10) feet from the road right-of-way.
2. Fences located between the front of the house and the rear of the house shall not exceed 4.5 feet in height; fences located to the rear of the house shall not exceed six (6) feet in height.
3. Decorative fences in the single-family or multiple-family districts may include decorative fence posts which do not exceed forty-two (42) inches in height.
4. Walls shall be reduced to a maximum of three (3) feet above grade within twenty-five (25) feet of any street right-of-way.
5. Decorative fences may be located in the required side, rear or waterfront yard, but they shall be set back at least one (1) foot from the road right-of-way.
6. Fences which enclose public playgrounds or institutional playgrounds shall not exceed seven (7) feet above grade and shall not obstruct vision to an extent greater than twenty-five percent (25%) of the total fence area.
7. See wall requirements in Section 21.14 and 21.16.
8. Walls on corner lots shall be set back at least ten (10) feet from the road right-of-way.
9. Where needed to screen outside storage, fences and walls may be up to eight (8) feet in height.
10. Fences may be permitted in the front yard or side yard facing a street to enclose public utility yards and public playgrounds.

## Section 21.14 -- SCREENING REQUIREMENTS

Lots which are utilized for non-residential purposes or for off-street parking shall provide and maintain screening in accordance with the following regulations:

- A. Where the side or rear lot lines of a lot that is used for non-residential purposes or off-street parking abut property that is zoned for residential use, a masonry screening wall shall be constructed in accordance with the height and locational standards in this section and Section 21.16.
- B. The extent and height of a required screening wall shall be determined by the Planning Commission, provided the minimum wall height shall be as indicated in the following table, except that the wall shall be reduced to a maximum height of three (3) feet above grade within twenty-five (25) feet of any street right-of-way line.

<u>Use</u>	<u>Minimum Wall Height</u>
P-1 Vehicular Parking District	6.0 ft.
O-1 District	6.0 ft.
C-1, C-2, C-3 District	6.0 ft.
Off-Street Parking Lot	6.0 ft.
Non-Residential Use in a Residential District	6.0 ft.
I-1 District - Outside Storage Areas, Loading and Unloading	6.0 to 8.0 ft. See Section 14.03
Hospital Ambulance and Delivery Area	6.0 ft.
Utility Facilities	6.0 ft.

- C. Required walls shall be placed inside and adjacent to the lot line except in the following instances:
  - 1. Where underground utilities interfere with placement of a wall at the property line, the wall shall be placed on the utility easement line located nearest the property line.
  - 2. Where required by this ordinance, walls shall conform to the setback requirements for the district in which they are located.
  - 3. Where landscaping is required adjacent to a required wall, the wall may be located up to 15 feet from the property line to allow space for the required landscaping.
- D. As a substitute for a required screening wall, the Planning Commission may, in its review of the site plan, approve the use of other existing or proposed living or man-made landscape features (such as closely spaced evergreens and a berm) that would produce substantially the same results in terms of screening, durability, and permanence. Any such substitute screening shall comply with the applicable requirements in Section 21.35.
- E. The Planning Commission may waive the requirements for a screening wall upon making the determination that:
  - 1. The adjoining residential district is in transition and will become non-residential in the future, or

2. Existing physical features provide adequate screening.

## **Section 21.15 -- [RESERVED FOR FUTURE USE]**

## **Section 21.16 -- WALL, STONE OR BRICK FACING**

Wherever in this Ordinance a wall is required:

- (a) The wall shall be stone, brick, faced with brick or precast concrete of an ornamental design, and shall be erected on a concrete foundation which shall have a minimum depth of forty-two (42) inches below the approved grade and in compliance with the adopted building code, and at least four (4) inches wider than the wall to be erected. The wall shall be capped with concrete coping block or another suitable method of preventing damage to the top of the wall.
- (b) All walls shall be constructed prior to the back filling of any foundation or prior to any construction that extends above the foundation wall, whichever first occurs, in order to preserve the residential character and livability of the adjacent residential properties during the time of construction.
- (c) Foundation plantings from the Recommended Plant List in Section 21.35(e)(1) shall be planted along all required walls. The plantings shall be on the side of the wall facing the road or adjacent property. Any one of the following shall be provided to fulfill the foundation planting requirement: One (1) shrub like tree or evergreen tree every 10 linear feet of wall; one (1) deciduous tree planted per 30 linear feet; or eight (8) shrubs planted per 30 linear feet of wall. Other landscaping may be substituted for 1 tree at the discretion of the Planning Commission.
- (d) Whenever a required wall exceeds 40 feet in length, it shall incorporate piers, pilasters, modulations in the wall (variation in height or break in linearity), or other ornamental architectural elements, spaced a distance of no more than six times the height of the wall.
- (e) A curb constructed of concrete, or other barrier approved by the Planning Commission shall be placed at all parking spaces abutting a required wall, and shall be placed no closer than five (5) feet from the wall to prevent vehicle encroachment into the wall.

## **Section 21.17 -- ACCESS TO RESIDENTIAL PROPERTY**

No residential building shall be erected on any lot which does not abut for at least 20 feet upon a public street or permanent unobstructed easement of access connecting such lot with a public street. Such street or easement shall have a minimum width of 30 feet, except where such street or easement of less width existed prior to the adoption of this Ordinance. Such building shall not be permitted nearer to such easement line than to the street line. Such street or easement of access shall not reduce the side open space of an existing residential building to less than eight (8) feet or reduce the rear open space to less than 20 feet.

## **Section 21.18 -- DWELLING IN ACCESSORY BUILDING PROHIBITED**

In all zoning districts, residential occupancy of any accessory building is expressly prohibited.

## **Section 21.19 -- ESSENTIAL SERVICES**

Essential services shall be permitted as authorized and regulated by law and other Ordinances of the City, it being the intention hereof to exempt such essential services from the application of this Ordinance, except that all above-grade buildings hereunder shall be subject to site plan review in accordance with this Ordinance.

## **Section 21.20 -- AUTOMOTIVE TRAILER CAMPS OR TOURIST CABINS PROHIBITED**

No automotive trailer camps or tourist cabins shall be established, and automobile trailers, recreational vehicles, boats and similar portable dwellings or tents shall not be permitted to be used or occupied as dwellings.

## **Section 21.21 -- TEMPORARY AND PORTABLE BUILDINGS, USES, STRUCTURES AND EVENTS**

Temporary buildings, structures, and uses may be permitted by the Director of Planning and Development or the Director's designee, subject to the following conditions:

- A. Unless otherwise noted in this section, a permit for a temporary building, structure, or use shall not be issued for a period exceeding six (6) months. However, extension of a temporary permit may be granted provided that the applicant demonstrates that diligent efforts are underway to alleviate the condition necessitating the temporary permit.
- B. The application for temporary permit shall be accompanied by a properly-dimensioned plot plan that clearly illustrates, where applicable, the proposed structure or use, parking, signs, lighting, storage, trash collection areas, utility services (including electrical and telephone wires, water service, and sanitary service), generators and other power equipment, driveways and other pertinent site features. The plot plan shall be based on a mortgage survey or registered survey or shall be based on actual field measurements provided that such measurements adequately and accurately portray the conditions on the site.
- C. The Director of Planning and Development may require safeguards related to minimum setbacks, screening, off-street parking, hours of operation, site clean-up, site access, and any other reasonable conditions the Director deems necessary to protect the health, safety, welfare and comfort of the public.
- D. A temporary permit shall not be issued for a structure or use that is listed as a permitted principal or special land use in a district and is intended to operate year-after-year with no specific date of or conditions for termination.
- E. The Director shall require posting of a performance guarantee to assure site clean-up, including sign removal.
- F. A temporary use permit shall not be required for installation of a temporary construction trailer or other structures or uses during the period that a construction project is in progress on the same or a nearby site.

## **Section 21.22 -- STORAGE OF OBNOXIOUS MATTER IN OPEN CONTAINERS PROHIBITED**

No compost heaps, garbage, filth, refuse or other obnoxious matter shall be kept in open containers, piled or laid on the open ground; and all containers shall be stored in such a way so as not to be visible from any street.

## **Section 21.23 -- SOIL REMOVAL OR FILLING**

The use of land for quarry excavation or the removal or filling of topsoil, sand, gravel or other material from or on the land is not permitted in any zoning district except under a permit from the Building Inspector. Approval shall not be granted, and a permit shall not be issued, if such removal or filling will be above or below the normal grade as established from the nearest existing or proposed street, or will cause stagnant water to collect or leave the surface of the land, at the expiration date of such permit, in an unsuitable condition or unfit for the growing of turf or for other land uses permitted in the district in which the removal or filling occurs. This regulation shall not prohibit the normal removal or filling of soil for the construction of an approved building or structure when such plans have been approved by the Building Inspector, and a building permit has been issued for said building development. The removal, filling or combination of removal and filling of soil in excess of 1,000 cubic yards shall require site plan approval by the Planning Commission, unless such activity is normally related to activity for which a building permit has been issued.

## **Section 21.24 -- STORAGE OR DUMPING ON OPEN LAND PROHIBITED**

The use of open land for the open storage or collection or accumulation of lumber, except for firewood less than two (2) feet long that is stored for use on the premises, or man-made materials, or for the dumping or disposal of scrap metal, junk, parts of automobiles, trucks, boats, tires, garbage, rubbish, or other refuse or of ashes, slag or other wastes or by-products, shall not be permitted in any district.

## **Section 21.25 -- GOVERNMENTAL FUNCTIONS PERMITTED**

The City of Walled Lake shall have the right to construct and maintain any building or structure required for the performance of its governmental or proprietary functions; provided that such building, structure or function shall conform to the use and procedural regulations of the district in which it is located and of this Ordinance, be constructed so as to conform with the surrounding uses, and shall be subject to site plan approval pursuant to Section 21.28.

## **Section 21.26 -- EASEMENTS**

It shall be unlawful for any person to install, erect or cause or permit the installation of a permanent structure (including by way of example but not limitation, garage, building or large tree) on or across an easement of record which will prevent or interfere with the free right or opportunity to use or make accessible such easement for its proper use. Where public utilities now exist, a six (6) foot easement shall be maintained.

## **Section 21.27 -- REGULATION OF NUISANCE ACTIVITIES**

No activity or use shall be permitted on any property which by reason of the emission of odor, fumes, smoke, vibration, radiation, noise, disposal of waste or other similar externality is deleterious to other permitted activities in the zone district or is obnoxious or offensive to uses permitted in neighboring districts.

## **Section 21.28 -- SITE PLAN REVIEW (amended eff. Feb. 2009 Sections A-E)**

### **A. Statement of Purposes.**

The site plan review process is established for the following purposes:

#### **1. Consultation and Cooperation.**

A purpose of site plan review is to provide a framework for consultation and cooperation between land owners and developers and the City in order to accomplish the owner's and developer's land use objectives in harmony with surrounding existing and planned land.

**2. Determination of Compliance.**

This section establishes procedures to ensure that development proposals are in compliance with this Ordinance and other applicable City, County, State and Federal regulations.

**3. Overview of Procedures.**

- a. Pre-Site Plan Review provides the land owner or developer and City the opportunity to discuss a proposed development prior to Planning Commission review to determine the project's feasibility and potential problems.
- b. Planning Commission Review is required to determine the compliance of the site plan with the Zoning Ordinance and other applicable regulations, its adherence with sound site planning and design principles, and conformance with the Criteria for Approval of Site Plans outlined in Section 21.28 (G).
- c. Variances may be required for site plan approval if the site plan does not conform to specific requirements of the Zoning Ordinance. The Zoning Board of Appeals hears requests for variances under the provisions of Article 23.00.
- d. Administrative Review shall be conducted pursuant to the criteria set forth in Section 21.28E by the Development Coordinator or his/her designated representative for site plan review, and/or by an administrative plan review committee as determined by the Development Coordinator.

**B. Scope of Requirements.**

In each zoning district, except for single family residential uses in the R1-A and R1-B Single Family Residential Districts, no building shall be erected, moved, relocated, converted or structurally altered and no change or addition of use, expansion or reduction of off-street parking, or filling, excavation or grading shall be undertaken until a site plan has been submitted for review and approval, as specified in this section. A structural alteration shall be defined as one that changes the location of the exterior walls and/or the area of the building. Filling, grading or excavation which causes more than five (5) cubic yards of earth material to be disturbed shall require site plan approval. Condominium development in any district requires site plan approval.

**C. Pre-Site Plan Review.**

1. Pre-site plan review shall be required for all site plans except those determined by the Development Coordinator to be generally minor in scope, complete and in compliance with zoning regulations, free of any impact on surrounding property, and not requiring a discretionary decision by the Planning Commission. In making these determinations, the Coordinator may seek the advice of the Planning Consultant or others.
2. **Pre-Site Plan Review Committee.**
  - a. Membership. Membership on the Pre-Site Plan Review Committee may vary depending on the nature of the proposal being reviewed at a particular Committee meeting, but shall generally consist of the members listed below. Attendance by each member or class of members is not required, and a majority of members need not be present for the Committee to conduct a review of a development proposal.

- i. The Development Coordinator or his/her designated representative or successor.
  - ii. The City Planner and City Engineer.
  - iii. One (1) to three (3) representatives of the Planning Commission.
  - iv. Other City staff or consultants who the Director of Planning and Development determines are needed to properly evaluate a proposal.
- b. Meetings. Meetings of the Pre-Site Plan Review Committee shall be scheduled and held as needed by the Development Coordinator. The Development Coordinator shall insure that all members of the Committee are notified of meetings.
- c. Responsibilities. The Committee may, in an advisory capacity:
- i. Review and comment on site plan proposals;
  - ii. Provide guidance to land developers, particularly regarding Zoning Ordinance and other applicable regulations and planning and development objectives of the City;
  - iii. Review other plans or proposals referred to it by the Planning Commission or Development Coordinator; and
  - iv. Identify when a site plan or other development proposal is substantially complete.
- d. Effect of Committee's Review. The Pre-Site Plan Review Committee's review shall not substitute for or be construed in any way as a decision or opinion of the Planning Commission regarding the site plan.
- e. Placement of site plan on Planning Commission's agenda.

The Development Coordinator or his/her designee shall prepare the agenda for the Planning Commission's regular meeting. The Coordinator shall seek assistance from the Planning Commission Chairperson and the City Planner.

### 3. **Application for Review by Pre-Site Plan Review Committee.**

- a. An applicant shall submit the following prior to review by the Pre-Site Plan Review Committee:
- i. A completed application form.
  - ii. The fee established by the City Council.
  - iii. Not less than nine (9) individually folded copies of the site plan and supporting documentation, prepared in sufficient detail to indicate the layout of the proposed development and to enable determination of compliance with the Zoning Ordinance.

An applicant may submit plans and documentation that are less than complete for the purposes of obtaining guidance during the plan preparation process. The Pre-Site Plan Review Committee can only comment on the plans that have been submitted, so the committee's comments are subject to revision when completed plans and documentation are submitted.

The Development Coordinator shall review the plans and supporting documentation to determine if sufficient information has been provided to determine the nature and scope of the proposal and compliance with zoning regulations.

- b. If the Development Coordinator determines the materials are sufficient, he/she shall schedule a meeting of the Pre-Site Plan Review Committee as soon as is convenient.

#### D. **Planning Commission Review.**

Where a site plan requires review by the Planning Commission, the applicant shall comply with the following procedures and requirements.

**1. Application for Planning Commission Review.**

- a. An applicant shall submit the following in order to be entitled to review by the Planning Commission:
  - i. Not less than sixteen (16) individual folded copies of the detailed site plan and supporting documentation.
  - ii. A completed application form (if one has not been submitted previously for Pre-Site Plan Review).
  - iii. The fee established by the City Council.
- b. The Development Coordinator shall examine the site plan to determine that it contains all the required information as specified in this Ordinance.
- c. If the site plan has been placed on the Planning Commission agenda as a result of Pre-Site Plan Review Committee action, then the Development Coordinator shall determine if the plan submitted for Planning Commission review is substantially similar to the plan reviewed by the Committee. If the plan is not substantially similar, or is incomplete, the Development Coordinator shall return it to the applicant with a written explanation of the plan's deficiencies.

**2. Required Information.**

All plans must conform to the requirements of Section 21.28(F) prior to acceptance for Planning Commission review.

**3. Distribution of Plans for Review.**

The Development Coordinator shall review the site plans and shall secure comments from the Department of Public Works, Police and Fire departments, and the City Engineer and Planner, and forward the site plans along with written comments to the Planning Commission for review. The Planning Commission shall review the plans and may solicit further comments from the review authorities. The Planning Commission has the authority to take action on a site plan at the first meeting that it appears on the Planning Commission agenda.

**4. Planning Commission Action.**

The Planning Commission shall review the site plan proposal together with any public hearing findings and any requested reports and recommendations from the City staff, City Planner, City Engineer, and other reviewing agencies. The Planning Commission shall then approve, approve with conditions, deny, or table the site plan as follows:

- a. Approval  
Upon determination that a site plan is in compliance with the standards and requirements of this Ordinance, including the criteria in Section 21.28(E), and other applicable ordinances and laws, the Planning Commission shall approve the plan.
- b. Approval Subject to Conditions  
Upon determination that a site plan is in compliance except for certain modifications, the Planning Commission may approve the site plan subject to reasonable conditions. The conditions for approval shall be identified and the applicant shall be given the opportunity to correct the site plan. The conditions may include the need to obtain variances or obtain approvals from other agencies. If a site plan has been approved subject to conditions, the applicant shall be required to re-submit a revised site plan with a revision date, and with all conditions addressed on the plan.

- c. Denial  
Upon determination that a site plan does not comply with the standards and regulations set forth in this Section or elsewhere in this Ordinance, or requires extensive revision in order to comply with said standards and regulations, the Planning Commission shall deny the site plan.
- d. Tabling  
Upon determination that a site plan is not ready for approval or denial, or upon request by the applicant, the Planning Commission may table consideration of a site plan until a later meeting.

**5. Record of Action.**

Each action taken with reference to site plan review and approval shall be recorded in minutes of the Planning Commission. A building permit shall not be issued until five (5) copies of the final site plan which addresses all conditions of approval and includes a revision date and notation of all variances, has been signed by the Planning Commission Chairperson, the Development Coordinator, the City Planner, and the City Engineer.

**E. Administrative Review.**

The Development Coordinator shall determine which projects, proposals, developments, uses and activities are eligible for administrative review and action in accordance with eligibility criteria set forth in this subsection. In the case of reuse or expansion of an existing building or structure, an approved site plan must be on file at the City to be eligible for administrative review. The Development Coordinator shall review and take action on all projects, plans, developments, proposals and uses eligible for administrative review pursuant to the provisions of this ordinance, provided he/she may submit an eligible plan, project, proposal or use to an administrative plan review committee for administrative review, recommendation and/or action as determined by the Development Coordinator. The following provisions shall apply to administrative reviews:

1. Review by Administrative Plan Review Committee.
  - a. Subject to the exceptions and limitations designated in this sub-section, the Development Coordinator may submit the following plans, proposals, developments, uses and activities to an administrative plan review committee ("Review Committee") for administrative review:
    - i. Construction of an addition to an existing building or expansion of an existing, conforming use, subject to the following:
      - (a) The proposed addition or expansion shall not increase the total square footage of the building or area occupied by the use by more than 1,500 square feet, provided further that no other expansion has occurred within the past 3 years.
      - (b) The proposed addition or expansion excludes a single family dwelling.
    - ii. Co-location on an existing wireless communication facility.
    - iii. Family day care homes (less than six children), as licensed by the State of Michigan.
    - iv. Modifications to an approved site plan not deemed minor, as described in Section 21.28E(7).
    - v. Projects, plans, developments, proposals submitted to the Review Committee under any other ordinance provision allowing for administrative review by the Review Committee.
    - vi. Modifications to an approved site plan for a special land use, conditional zoning, Commercial Planned Development, or Planned Unit Development project are not eligible for review by a Review Committee.



- j. Temporary construction buildings.
  - k. Accessory structures and uses specified in Section 21.10 (Accessory Buildings, Structures and Uses).
  - l. Modifications to an approved site plan for a special land use, conditional zoning, Commercial Planned Development or Planned Unit Development project are not eligible for review by the Development Coordinator.
  - m. The Development Coordinator or applicant shall have the option to request Review Committee or Planning Commission review of a project or proposal that would otherwise qualify for administrative review and action under the provisions of this sub-section, with all costs associated with such review borne by the applicant.
- 3. Exempt Improvements.**  
Site plan review and a building permit shall generally not be required for painting, re-shingling, window replacement that does not involve structural or dimensional changes, replacement of existing diseased or dead landscaping, pot hole repair, parking lot restriping, installation of a dumpster screen in accordance with this Ordinance, or other ordinary maintenance activities.
- 4. Application Requirements and Procedures.**  
If the proposed modifications are determined to be minor per Section 21.28E(7), then a sketch plan and application may be submitted. The sketch plan must include the following minimum information:
- a. Name, address and telephone number of the applicant.
  - b. Title block.
  - c. Scale.
  - d. Northpoint.
  - e. Dates of submission and revisions (month, date, year).
  - f. The seal of one of the following professionals registered in the State of Michigan: Architect, Civil Engineer, Landscape Architect, or Professional Community Planner. The architectural plan of the buildings shall be prepared by and bear the seal of an Architect.
  - g. Existing lot lines, building lines, structures, parking areas and other improvements on the site and within 100 feet of the site.
  - h. Detailed plans and specifications describing the proposed improvements on the site.
  - i. Any additional information deemed necessary by the Development Coordinator to determine compliance with the City ordinances. The Coordinator may waive any application requirement he/she determines is not needed to determine compliance with the Zoning Ordinance.
- 5. Submission to Review Agencies.**  
If review input is required, the Development Coordinator may request that review agencies or professionals, including the Fire Department, Department of Public Works, Planner, and Engineer, confine their review to the proposed alterations only, rather than review the entire building or site layout.
- 6. Development Coordinator Review.**

The Development Coordinator shall review each site plan that has been submitted for administrative review, together with any reports and recommendations submitted by review agencies and professionals. The Development Coordinator shall reject any application, plan or proposal submitted for administrative review that is either incomplete or does not substantially comply with the applicable ordinance requirements and notify the applicant as to any deficiencies.

7. **Minor Modifications.** Minor modifications are changes that do not substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demand for public services, or the vulnerability to hazards. Examples of minor modifications include:
- a. An addition to an existing commercial or industrial building that does not increase the floor space by more than 1,500 square feet.
  - b. Re-occupancy of a vacant building that has been unoccupied for less than twelve months.
  - c. Changes to building height that do not add an additional floor.
  - d. Reduction in the square footage of an existing or proposed building.
  - e. Additions to the landscape plan or landscape materials, relocation of plant material because of road right-of-way restrictions or to avoid conflict with utilities, substitution of comparable species instead of the approved species, and installation of street trees consistent with the species and location standards specified by the City of Walled Lake.
  - f. Relocation or screening of the trash receptacle.
  - g. Alterations to the internal parking layout of an off-street lot.
  - h. Relocation of a trash receptacle or installation of screening around an existing dumpster, provided that the dumpster is in compliance with the required setbacks.
  - i. Construction of sidewalks, whether on private property or within the road right-of-way.
  - j. Installation of street and parking lot lighting, provided that lighting fixtures installed in the road right-of-way shall comply with the design and installation standards specified by the City.
  - k. Minor building alterations designed to improve accessibility to a building consistent with the State barrier-free design regulations and/or the Americans with Disabilities Act or to otherwise enhance public safety and convenience.
  - l. Installation of a three (3) foot wide hard-surfaced splash area, consisting of paving brick, cobblestone, or similar material consistent with the provisions of Section 21.35(D)1.e.
  - m. Installation of concrete curbing and drainage adjacent to public streets.
  - n. Burial of existing above ground utility lines.
  - o. Modifications to an approved site plan for a special land use, conditional zoning, or Planned Development project or which require a variance, shall not be considered a minor

8. **Authorization.**

The Development Coordinator and/or Review Committee shall review the site plan proposal together with any public hearing findings and any requested reports and recommendations from the Building Official, City Planning Consultant, and/or other City staff and reviewing agencies, as applicable.

- a. The Development Coordinator (as per Section 21.28E) or Review Committee when authorized by the Development Coordinator, shall take the following action on a complete

plan, subject to guidelines in the Zoning Ordinance: approval, approval with conditions, denial, or table the site plan, as follows:

- i. Approval. Upon determination that a site plan is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, approval shall be granted.
  - ii. Approval Subject to Conditions. Upon determination that a site plan is in compliance except for minor modifications, the conditions for approval shall be identified and the applicant shall be given the opportunity to correct the site plan. The conditions may include the need to obtain variances or obtain approvals from other agencies. If a plan is approved subject to conditions, the applicant shall submit five copies of a revised plan with a revision date, indicating compliance with the conditions of approval, to the Development Coordinator.
  - iii. Denial. Upon determination that a site plan does not comply with the standards and regulations set forth in this Article or elsewhere in this Ordinance, or requires extensive revision in order to comply with said standards and regulations, site plan approval shall be denied.
  - iv. Tabling. Upon determination that a site plan is not ready for approval or rejection, or upon a request by the applicant, the Review Committee may table consideration of a site plan until a future meeting.
9. Appeal. An applicant may appeal any condition or denial of any plan, proposal, development or use submitted for administrative review by submitting a signed, written request for appeal to the City Clerks Office within 30 days of the administrative denial and/or imposition of condition(s). The Planning Commission shall review all appeals filed under this subsection. The Planning Commission shall review the denial or condition(s) in accordance with Planning Commission review criteria applicable to original/initial Planning Commission review. The Planning Commission may affirm, reverse, modify or affirm/modify subject to conditions any administrative decision appealed under this subsection.

#### **F. Criteria for Approval of Site Plans**

The following criteria shall be used by the Planning Commission as a basis upon which site plans will be reviewed and approved. The Planning Commission shall adhere to sound planning and design principles, yet may allow for design flexibility in the administration of the following standards:

1. All elements of the site shall be harmoniously and efficiently designed in relation to the topography, size, and type of land, and the character of the adjacent properties and the proposed use. The site will be developed so as not to impede the normal and orderly development or improvement of surrounding properties for uses permitted on such property.
2. The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements as set forth in The Schedule of Regulations unless otherwise provided in this Ordinance.
3. The existing natural landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal and by topographic modifications that result in maximum harmony with adjacent properties.
4. There shall be reasonable visual and sound privacy. Fences, walls, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the safety and privacy of occupants and users.

5. All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
6. Where possible and practical, drainage design shall recognize existing natural drainage patterns.
7. There shall be a pedestrian circulation system that is insulated as completely as possible from the vehicular circulation system. In order to insure public safety, pedestrian underpasses or overpasses may be required in the vicinity of schools, playgrounds, local shopping facilities, and other uses that generate considerable amounts of pedestrian movement.
8. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site. Streets and drives that are a part of an existing or planned street system serving adjacent developments shall be of an appropriate width to the volume of traffic they are planned to carry and shall have a dedicated right-of-way equal to that specified in a City recognized source of reference. In order to insure public safety and promote efficient traffic flow and turning movements, the applicant may be required to limit street access points or construct a marginal access road.
9. Appropriate measures shall be taken to insure that the removal of surface waters will not adversely affect adjoining properties or the capacity of the public or natural storm drainage system. Provisions shall be made for a feasible storm drainage system, the construction of storm-water facilities, and the prevention of erosion and dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicles or pedestrian traffic and will not create nuisance ponding in paved areas. Final grades may be required to conform to existing and future grades of adjacent properties. Grading and drainage plans shall be subject to review by the City Engineer.
10. Off-street parking, loading and unloading areas and outside refuse storage areas, or other storage areas that face or are visible from adjacent homes, or from public thoroughfares, shall be screened by walls or landscaping of effective height. Dumpsters shall have gates.
11. Exterior lighting shall be so arranged and limited in intensity and height or adequately shielded, so that it is deflected away from adjoining properties and so that it does not impede vision of drivers along adjacent streets.
12. Adequate services and utilities including sanitary sewers, and improvements shall be available or provided, located and constructed with sufficient capacity and durability to properly serve the development.
13. Any use permitted in any zoning district must also comply with all applicable Federal, State, County and City health and pollution laws and regulations with respect to noise, smoke and particulate matter, vibration, noxious and odorous matter, glare and heat, fire and explosive hazards, gases, electromagnetic radiation and drifting and airborne matter, toxic and hazardous materials, erosion control, flood plains, and requirements of the State Fire Marshall.
14. An objective of site plan review shall be to protect and to promote public health, safety and general welfare by requiring the screening, buffering and landscaping of sites and parking lots which will serve to reduce wind and air turbulence, heat and noise, and the glare of automobile lights; to preserve underground water reservoirs and return precipitation to the ground water strata; to act as a natural drainage system and solve storm water drainage problems; to reduce the level of carbon dioxide and return oxygen to the atmosphere; to prevent soil erosion; to provide shade; to conserve and stabilize property values; to relieve the stark character of parking lots; to conserve energy, provide visual and sound privacy and to otherwise facilitate the preservation and creation of a healthful, convenient, attractive and harmonious community.

15. It is an objective of site plan review to improve the quality of existing developments as they are expanded, contracted, redeveloped or changed in keeping with sound site development standards of the City.
16. A major objective shall be to retain, enhance and protect the quality, value and privacy of single family land uses.
17. All development phases shall be designed in logical sequence to insure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon improvements of a subsequent development potential of lands.
18. All sites shall be designed to comply with State and local barrier-free requirements and to reasonably accommodate the handicapped and elderly.
19. All site features, including circulation, parking, building orientation, landscaping, lighting, utilities, common facilities and open space shall be coordinated with adjacent properties.
20. All designs shall recognize and follow any design themes adopted by the City.

**G. Submittal Requirements**

The following required information shall be included on all site plans:

**1. Application Form**

The application form shall contain the following information:

- a. Applicant's name and address.
- b. Name and address of property owner, if different from applicant.
- c. Common description of property and complete legal description.
- d. Dimensions of land and total acreage.
- e. Existing zoning and zoning of all adjacent properties.
- f. Proposed use of land and name of proposed development, if applicable.
- g. Proposed buildings to be constructed.
- h. Name and address of firm or individual who prepared site plan.
- i. Proof of property ownership.

**2. Site Plan Descriptive and Identification Data**

Site plans shall consist of an overall plan for the entire development, drawn to a scale of not less than 1 inch = 30 feet for property less than 5 acres, or 1 inch = 50 feet for property 5 acres or more in size. Sheet size shall be at least 24 inches by 36 inches. The following descriptive and identification information shall be included on all site plans:

- a. Applicant's name, address, telephone number.
- b. Title block.

- c. Scale.
- d. Northpoint.
- e. Dates of submission and revisions (month, day, year).
- f. Location map drawn to a scale with northpoint.
- g. Legal and common description of property.
- h. Written description of proposed land use.
- i. Zoning classification of petitioner's parcel and all abutting parcels.
- j. Proximity to section corner and major thoroughfares.
- k. The seal of one of the following professionals registered in the State of Michigan: Registered Architect, Registered Civil Engineer, Registered Landscape Architect, or Registered Professional Community Planner. The architectural plan of the buildings shall be prepared by and bear the seal of a Registered Architect.
- l. Boundary dimensions of the property. The boundaries of the site shall be clearly differentiated from other contiguous property.
- m. Notation of any variances which have been or must be secured.
- n. The performance guarantees to be provided including the amounts, types, and terms.
- o. The area of the site in square feet and acres excluding all existing and proposed public right-of-way; and the total area of all building, pavement and other impervious surface.
- p. The dimensions of all lots and property lines, showing the relationship of the subject property to abutting properties and all required minimum setbacks from the existing or proposed right-of-way and from adjacent properties.
- q. Information and statement of how applicant proposes to comply with State, Local and Federal laws, as applicable to site or use.
- r. Information and special data which may be critical to the adequate review of the proposed use and its impacts on the site or City. Such data requirements may include traffic studies, market analysis, environmental assessments (including inventory and impact data on flora, fauna, natural resources, hazardous materials, erosion control and pollution), demands on public facilities and services and estimates of potential costs to the City due to failures (as a basis for performance guarantees).

### **3. Site Data**

- a. Existing lot lines, building lines, structures, parking areas and other improvements on the site and within 100 feet of the site.
- b. On parcels of more than one (1) acre, topography on the site and within 100 feet of the site at two-foot contour intervals, referenced to a U.S.G.S. benchmark.
- c. Proposed lot lines, lot dimensions, property lines, structures, parking areas, and other improvements on the site and within 100 feet of the site.

- d. Dimensions and centerlines of existing and proposed roads and road rights-of-way.
- e. Acceleration, deceleration, and passing lanes, where required.
- f. Proposed location of access drives and on-site driveways.
- g. Location of existing drainage courses, flood plains, lakes and streams, with elevations.
- h. Location and dimensions of existing and proposed interior sidewalks and sidewalks in the right-of-way, in accordance with Section 21.36.
- i. Exterior lighting locations and method of shielding lights from shining off the site.
- j. Trash receptacle location(s) and method of screening, in accordance with Section 21.39.
- k. Transformer pad location and method of screening, if applicable.
- l. Front, side, and rear yard dimensions.
- m. Parking spaces, typical dimensions of spaces, indication of total number of spaces, drives, and method of surfacing.
- n. Information needed to calculate required parking in accordance with zoning ordinance standards.
- o. The location of lawns and landscaped areas.
- p. Detailed landscape plan in accordance with the requirements of Section 21.35 indicating location, types and sizes of materials. A landscaping and property maintenance plan and schedule for pruning, mowing, watering, fertilizing, and replacement of dead and diseased materials. Cross section of any berms shall be provided.
- q. Location, sizes, and types of existing trees five (5) inches or greater in diameter, measured at one (1) foot off the ground, before and after proposed development.
- r. All existing and proposed easements.
- s. Designation of fire lanes.
- t. Loading/unloading area.
- u. All proposed screen and free standing architectural walls, including typical cross-section and the height above ground on both sides.
- v. The location of any outdoor storage of material(s) and the manner in which it shall be screened or covered.
- w. Location and description of all easements for public right-of- way, utilities, access, shared access, and drainage.
- x. A three (3) foot wide hard surfaced splash area shall be installed in the road right-of-way along the curb edge, plus along both sides of any driveway approach, pursuant to the design and installation standards maintained by the City and in accordance with Section 21.35(d).

**4. Building and Structure Details.**

- a. Location, height, and outside dimensions of all proposed buildings or structures.
- b. Indication of number of stories and number of commercial or office units contained therein.
- c. Typical building floor plans.
- d. Total floor area.
- e. Location, size, height, and lighting of all proposed signs.
- f. Obscuring walls or berm locations with cross-sections where required.
- g. Building facade elevations drawn to a scale of one (1) inch equals four (4) feet, or to another scale approved by the Inspector and adequate to determine compliance with the requirements of this Ordinance. Elevations of proposed buildings shall indicate type of building materials, roof design, projections, canopies, awnings and overhangs, screen walls and accessory buildings, and any other outdoor or roof-located mechanical equipment, such as: air conditioning, heating units and transformers that will be visible from the exterior.

**5. Information Concerning Utilities, Drainage, and Related Issues.**

- a. Location of sanitary sewers and septic systems, existing and proposed.
- b. Location and size of water mains, well sites, and water service leads, existing and proposed.
- c. Location of hydrants, existing and proposed, with reasonable access thereto for use by public safety and fire fighting personnel.
- d. Location of storm sewers and storm sewer facilities existing and proposed, including storm water retention/detention facilities.
- e. Indication of site grading, drainage patterns, and other storm water control measures.
- f. Storm water drainage and retention calculations.
- g. Location of gas, electric, and telephone lines, above and below ground.
- h. Types of soils and location of flood plains and wetlands, if applicable.
- i. Assessment of potential impacts from the use, processing, or movement of hazardous materials or chemicals, if applicable.
- j. Soil erosion and sedimentation control measures.
- k. Existing ground elevations on the site of appropriate intervals to show drainage patterns, including existing ground elevations of adjacent land within 100 feet of the subject property and existing building, drive and/or parking lot elevations or any adjacent unusual surface conditions.
- l. Proposed finish grades on the site, including the finish grades of all buildings, driveways, walkways, and parking lots.
- m. Curbs and gutters, in accordance with Section 21.44.

**6. Information Applicable to Multiple-Family Residential Development.**

- a. The number and location of each type of residential unit (one bedroom units, two bedroom units, etc.).
- b. Density calculations by type of residential unit (dwelling units per acre).
- c. Floor plans of typical buildings with square feet of floor area.
- d. Building elevations of typical buildings.
- e. Garage and/or carport locations and details, if proposed.
- f. Dedicated road or service drive locations.
- g. Community building location, dimensions, floor plans, and elevations, if applicable.
- h. Swimming pool fencing detail, including height and type of fence, if applicable.
- i. Location and size of recreation and open space areas.
- j. Indication of type of recreation facilities proposed for recreation area.

**7. General Notes.**

- a. If any of the items listed above are not applicable, the following information should be provided on the site plan:
  1. A list of each item considered not applicable.
  2. The reason(s) why each listed item is not considered applicable.
- b. Other data may be required if deemed necessary by the City or Planning Commission to determine compliance with the provisions of this Ordinance.

**H. Construction Pursuant to an Approved Plan**

When an applicant receives site plan approval as provided herein, the applicant shall develop the site in complete conformity with the approved site plan. Complete construction plans, including a landscape plan prepared by a registered landscape architect for all landscaped areas, shall be submitted for review by the Director of Planning and Development. Upon finding by the Director of Planning and Development that the construction plans meet the requirements of site plan approval and other applicable ordinances of the City, the shall authorize issuance of a building permit.

**I. Period of Validity, Extension of Site Plan Approval**

Site plan approval shall be valid for one year from the date of approval. If no building permit is obtained within one (1) year of site plan approval or if no work is commenced within six (6) months after the issuance of a building permit, the site plan approval expires and is of no force or effect, unless extended by the Planning Commission.

**J. Certificate of Occupancy**

A Certificate of Occupancy shall be withheld by the Building Official if construction is not consistent with the approved site plan. Minor variations may be approved by the Building Official; if the site plan was originally approved by the Planning Commission, then the Building Official shall report such minor variations to the Planning Commission within thirty (30) days after issuance of the Certificate of Occupancy.

## **Section 21.29 -- PROCEDURES AND STANDARDS FOR PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

### **A. Intent**

The types of uses requiring special approval shall be deemed to be permitted uses in their respective districts, subject, as to each specific use, to satisfaction of the procedures, requirements and standards set forth in this section. Each specific use for which a permit is sought shall be considered as an individual case and shall conform to the detailed application of the following procedures and standards in a manner appropriate to the particular circumstances of such use. Each use as listed in any district requiring special approval for a permit shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is suggested and will not be detrimental to the orderly development of adjacent districts and uses.

### **B. Public Hearings (amended eff. 2-23-99)**

Upon receiving a substantially complete application for special approval, a public hearing shall be scheduled by the Director of Planning & Development and held by the Planning Commission before a decision is made on the special approval request. No decision on a special approval request shall be made unless notification of the public hearing is given as required.

### **C. Procedure of Notice**

One notice of a public hearing shall be published in a newspaper of general circulation in the City; said notice shall be posted in the City offices, and shall be sent by mail or personal delivery to the owners of the property for which approval is being considered, to all persons to whom real property is assessed, within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet of the property regardless of whether property or occupant in the zoning jurisdiction.

The notice shall be given not less than 15 days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. The notice shall:

1. Describe the nature of the special land use request.
2. Indicate the property which is the subject of the special land use request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
3. State when and where the special land use request will be considered.
4. Indicate when and where written comments will be received concerning the request.

### **D. Planning Commission Hearing, Review and Approval**

Special land use approval shall not be granted until a public hearing has been held by the Planning Commission, in accordance with the procedures and notice described herein above. The Planning Commission shall deny, approve, or approve with conditions, requests for special land use approval. The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision, and any conditions imposed.

**E. Site Plan Review and Information Required**

For all special approval uses, a site plan shall be required and submitted in accordance with Section 21.28 of this Ordinance. Approval shall run with the land and shall not be issued for specified periods, unless the use is temporary or time-related in nature.

**F. Performance Guarantees**

Performance guarantees may be required by the Planning Commission to insure compliance with special approval conditions, in accordance with this Ordinance.

**G. Standards**

In addition to any specific site plan standards set forth in this Ordinance which the City shall apply to the use, the following standards shall serve the Planning Commission as the basis for decisions involving special land uses and other discretionary decisions contained in this Ordinance. Each proposed use or activity shall:

1. In location, size and intensity of the principal and/or accessory operations, be compatible with adjacent uses and zoning of land.
2. Be consistent with and promote the intent and purpose of this Ordinance.
3. Be compatible with the natural environment and conserve natural resources and energy.
4. Be consistent with existing and future capabilities of municipal services and facilities affected by the proposed use.
5. Protect the public health, safety, and welfare as well as the social and economic well-being of those who will use the land use or activity, residents, businesses and landowners immediately adjacent, and the City as the whole.
6. Promote the use of land in a socially and economically desirable manner.
7. Not be in conflict with convenient, safe and normal neighborhood vehicular and pedestrian traffic routes, flows, intersections, and general character and intensity of neighborhood development.
8. Be of such a design and impact that the use, its location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping on the site shall not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
9. In the nature, location, size and site layout and function of the use, be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another and characteristic groupings of uses of said district.

10. In the location, size, intensity of the use and site layout, be such that operations will not be objectionable to nearby dwellings or uses, by reason of noise, fumes, glare, flash of lights, or other similar externalities.

#### H. Record

All conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Planning Commission and the applicant. The City shall maintain a record of changes granted in conditions.

#### I. Specific Minimum Requirements for Specific Uses

The following uses shall be subject to the following minimum requirements set forth in this subsection:

1. Clubs - private, noncommercial service clubs of a social or fraternal nature, or boat clubs; municipal owned and operated libraries, parks, swimming pools or beaches; private, noncommercial recreation centers; non-profit swimming pool clubs; public or private golf courses; except playgrounds and similar uses designed and intended for local residential neighborhood use only:
  - a. The proposed site shall have at least one property line abutting a major thoroughfare and the site shall be so planned as to provide all ingress and egress directly onto or from said major thoroughfare.
  - b. Front and rear yards shall be at least eighty (80) feet and side yards shall be at least fifty (50) feet. The first twenty (20) feet of such yards shall be kept free of off-street parking and shall be landscaped.
  - c. All lighting shall be specially shielded to protect adjacent single-family areas.
  - d. Whenever off-street parking areas are adjacent to land used or zoned for single family residential purposes, a wall shall be provided along the sides of the parking area adjacent to such residential land in accordance with Section 21.14.
  - e. Any such use shall have a minimum site area of two (2) acres.
  - f. Whenever a pool is involved, said pool area shall be provided with a protective fence six (6) feet in height and entry shall be provided by means of a controlled gate or turnstile.
  - g. Buildings erected on the premises shall not exceed one (1) story in height except where due to topography a lower level shall be permitted when said lower level is entirely below the grade of the major thoroughfare abutting the parcel in question.
  - h. Off-street parking shall be provided so as to accommodate at least one-half (2) of the member families and/or individual members notwithstanding any other provisions of this Ordinance. Bylaws of the organization shall be provided to the Planning Commission in order to establish the membership involved for computing parking requirements. In those cases wherein the proposed use or organization does not have bylaws or formal membership, or the Planning Commission finds that the parking requirement will be excessive, the off-street parking requirements shall be determined by the Planning Commission on the basis of usage.
  - i. Additional minimum requirements for golf courses shall include the following:

- 1) Accessory uses not strictly related to a golf course which are generally of a commercial nature such as a restaurant and bar shall be housed in the clubhouse. Accessory uses which are strictly related to the operation of the golf course itself, such as a maintenance garage and pro shop or golf shop may be located in separate structures.
  - 2) No building shall be located on the site closer than one hundred (100) feet from the lot line of any adjacent residential land or from any public right-of-way.
  - 3) Lighting of playing areas of the golf course for night use shall be prohibited.
2. Nursery schools, day nurseries, child care centers, and pre-schools, when operated as a principal use or as an accessory use to an approved church or school, subject to the following conditions:
- a. Setbacks. The required front and rear setbacks shall be fifty (50) feet, and no portion of the front twenty (20) feet shall be used for parking.
  - b. Lighting. All exterior lighting shall be shielded so that it does not shine onto adjacent properties.
  - c. Off-Street Parking Whenever off-street parking areas are adjacent to land used or zoned for residential purposes, a wall or landscaped screen shall be provided along the sides of the parking adjacent to such residential land.
  - d. Outdoor Play Area For each child cared for there shall be provided and maintained a minimum of 150 sq. ft. of outdoor play area. The play area shall be screened from any adjacent residential use in accordance with sections 21.14 and 21.35. Outdoor play areas shall be located in the rear or waterfront yard.
3. Indoor commercial recreation uses including indoor archery range, indoor tennis courts, indoor skating rink, indoor paintball arenas, or other similar uses in the C-2, General Commercial District:
- a. All indoor commercial recreation uses must meet the development standards of Section 29.05.
  - b. The square footage of buildings used for indoor recreation must be deemed to be compatible with adjacent uses by the Planning Commission.
4. Churches and related religious buildings and facilities:
- a. The proposed site shall have at least one property line abutting a major thoroughfare and the site shall be so planned as to provide all ingress and egress directly onto or from said major thoroughfare.
  - b. Front and rear yards shall be at least fifty (50) feet and side yards at least twenty (20) feet, provided that no setback shall be less than the height of the building under any circumstances.
  - c. All lighting shall be shielded.
  - d. Whenever off-street parking areas are adjacent to land zoned for residential purposes, a wall shall be provided along the sides of the parking area adjacent to such residential land.
5. Public, parochial and other private elementary, intermediate and/or high schools:

- a. The proposed site shall have at least one property line abutting a major thoroughfare and the site shall be so planned as to provide all main ingress and egress directly onto or from said major thoroughfare.
  - b. Front and rear yards shall be at least fifty (50) feet and side yards shall be at least thirty (30) feet. The first twenty (20) feet of such yards shall be kept free of off-street parking and shall be landscaped.
  - c. All lighting shall be specifically shielded from adjacent single family areas.
  - d. Whenever off-street parking areas are adjacent to land zoned for residential purposes, a wall shall be provided along the sides of the parking area adjacent to such residential land in accordance with Section 21.14.
6. Indoor commercial recreation uses including indoor archery range, indoor tennis courts, indoor skating rink, indoor paintball arenas, or other similar uses in the I-1, Limited Industrial District:
- a. All characteristics of indoor commercial recreation uses, including but not limited to pedestrian circulation, hours of operation, noise, lighting, vehicular volume and vehicular circulation, must prove compatibility with all adjacent existing and permitted future land uses to insure minimal land use conflicts and the protection of public safety.
7. Public or private colleges, universities and other institutions of higher learning:
- a. The proposed site shall have at least one property line abutting a major thoroughfare and the site shall be so planned as to provide all main ingress and egress directly onto or from said major thoroughfare.
  - b. Front and rear yards shall be at least eighty (80) feet. The first fifty (50) feet of such yards shall be kept free of off- street parking and shall be landscaped.
  - c. All lighting shall be specifically shielded from any adjacent single family areas.
  - d. Whenever off-street parking areas are adjacent to land used or zoned for residential purposes, a wall shall be provided along the sides of the parking area adjacent to such residential land in accordance with Section 21.14.
  - e. Height of residential buildings in excess of the minimum requirements may be allowed provided minimum yard setbacks where yards abut land zoned for residential purposes, are increased by not less than thirty (30) feet for each yard, for each twelve (12) feet or fraction thereof by which said building exceeds the minimum height requirements of the zone.
  - f. Those buildings to be used for servicing or maintenance, such as heating plants, garages, storage structures and the like, shall not be located on the outer perimeter of the site where abutting property is used or zoned for residential purposes.
8. Nursing and convalescent homes; orphanages:
- a. The proposed site shall have at least one property line abutting a major thoroughfare and the site shall be so planned as to provide all ingress and egress directly onto or from said major thoroughfare.
  - b. Front, side and rear yards shall be at least one hundred twenty (120) feet. The first fifty (50) feet of such yards shall be kept free of off-street parking and shall be landscaped.

- c. All lighting shall be specially shielded from adjacent residential areas.
  - d. Whenever off-street parking areas are adjacent to land uses or zoned for residential purposes, a wall shall be provided along the sides of the parking area adjacent to such residential land.
  - e. For each such use in any residentially zoned district, there shall be provided on the site not less than one thousand (1,000) square feet of open space for each bed in the home. The one thousand (1,000) square feet of land area shall provide for landscape setting, off-street parking, service drives, loading space, yard requirements and accessory uses, but shall not include the area covered by main or accessory buildings.
9. General hospitals:
- a. The proposed site shall have at least one property line abutting a major thoroughfare and the site shall be so planned as to provide all ingress and egress directly onto or from said major thoroughfare.
  - b. Front, side and rear yards shall be at least eighty (80) feet. The first fifty (50) feet of such yards shall be kept free of off-street parking and shall be landscaped.
  - c. All lighting shall be specially shielded from all adjacent residential land use.
  - d. Whenever off-street parking areas are adjacent to land used or zoned for residential purposes, a wall shall be provided along the sides of the parking area adjacent to such residential land.
  - e. Buildings not to exceed forty-five (5) feet in height may be built, provided that minimum site, front and rear yard setbacks of not less than two times the height of the building.
  - f. Ambulance, emergency entrance and delivery areas shall be visually screened from the view of adjacent residential areas by a masonry wall at least six (6) feet in height, in accordance with Section 21.14.
10. Elderly housing:
- a. Elderly housing may provide for the following:
    - 1) Cottage-type one (1) story dwellings and/or apartments-type dwelling units.
    - 2) Common service containing, but not limited to, central dining rooms, recreational rooms, central lounge and workshops.
  - b. All dwellings shall consist of at least three hundred fifty (350) square feet per unit (not including kitchen and sanitary facilities).
  - c. Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed twenty-five (25) percent of the total site, not including any dedicated public right-of-way.
  - d. Facilities shall be designed with grab bars in hallways and bathrooms.
  - e. Off-street parking shall be provided on site in an amount equal to one space for each dwelling unit.

11. Group day care homes, large group homes, small group homes:
  - a. Location The proposed site shall have at least one property line abutting a major thoroughfare and the site shall be so planned as to provide all ingress and egress directly onto or from said major thoroughfare.
  - b. Compliance with Zoning Ordinance The proposed site and building shall be in full compliance with all yard and bulk regulations (including setback, lot size, and lot width regulations) for the district in which it is located.
  - c. Lighting All exterior lighting shall be shielded so that it does not shine on adjacent property.
  - d. Off-Street Parking Off-street parking shall be provided for any employees who are not residents of the home. Whenever off-street parking areas are adjacent to land used or zoned for residential purposes, a wall or landscaped screen shall be provided along the sides of the parking area adjacent to such residential land.
  - e. Outdoor Play Area For each child cared for in a group day care home there shall be provided and maintained a minimum of one hundred fifty (150) square feet of outdoor play area. The play area shall be screened from any adjacent residential use in accordance with Sections 21.14 and 21.35. Outdoor play areas must be located in the rear yard.
  - f. Conformance with State Regulations The home shall meet all applicable requirements (including licensing and certification requirements) of the Michigan Department of Social Services and all other applicable local, county, state and federal regulations.
  - g. Loading/Unloading Areas Group day care homes shall provide for safe loading and unloading of children, preferably not requiring vehicles to back up.
  - h. Conformance with Home Occupation Regulations Group day care homes shall comply fully with the regulations concerning home occupations in Section 21.33.
  - i. Concentration of Facilities In considering whether to permit establishment of group day care homes and/or the number of children that should be permitted in such a home, the City shall take into account the number of other existing facilities in the neighborhood and the potential overall impact on the neighborhood.
12. Quick oil change or lubrication stations:
  - a. Must be on a major thoroughfare
  - b. Must have a minimum of 150' frontage on the principal street serving the site
  - c. Cannot be located within 300' of any other facilities
  - d. Only one ingress/egress per street frontage is allowed, no closer than 50' to an intersection. One is allowed on residential streets.
  - e. Buildings shall be set back 35' from any setback
  - f. No building shall be located closer than 40' to any residentially-zoned land.

- g. There shall be a minimum of 3 stacking spaces per bay, provided they do not cross any drive, lane, sidewalk or parking space
  - h. There shall be two parking spots per bay, plus one.
  - i. When abutting residentially-zoned land, there shall be a 6' high decorative masonry wall and a 20' landscape setback.
  - j. There shall be a 10' landscape setback along all side and rear lot lines.
13. Automobile service stations:
- a. Site must be located on a major thoroughfare.
  - b. Minimum lot area 22,500 sq. ft., for each additional use (i.e., fast food restaurant, car wash, etc.) an additional 5,000 sq. ft. is required.
  - c. Minimum frontage of 150' shall be required on the principal street serving such station.
  - d. All buildings, awnings, pumps, air stations shall be set back 35' from the setback measurement line or street right-of-way, 50' front residentially-zoned property, 20' from any other lot line.
  - e. Only one ingress/egress per street frontage is allowed. In no instance shall a drive be closer than 50 feet to any intersection.
  - f. Adjacent to residentially-zoned districts there shall be a 6' high masonry wall and a 20' landscape setback.
  - g. There shall be a minimum of 10' landscape setback from side and rear lot lines that don't abut residentially-zoned land.
  - h. There shall be no onsite sale, or rental of any trucks, cars, trailers or equipment.
  - i. There shall be no outside storage of junk vehicles that are inoperable or unlicensed.
14. Outdoor sales space for car, truck, recreational vehicle, trailer or mobile home sales:
- a. The lot or area shall be provided with a permanent, durable and dustless surface, and shall be graded and drained as to dispose of all surface water accumulated within the area.
  - b. Access to the outdoor sales area shall be at least sixty (60) feet from the intersection of any two (2) streets measured from the existing or planned right-of-way, whichever is greater.
15. Car wash establishments:
- a. All washing facilities shall be within a completely enclosed building. This requirements may be addressed with solid overhead doors or folding doors, but not including plastic curtains.
  - b. Vacuuming and drying areas may be located outside the building but shall not be closer than twenty-five (25) feet from any residential district.
  - c. All cars required to wait for access to the facilities shall be provided space off the street right-of-way and parking shall be provided in accordance with Section 5.135.

- d. Access points shall be located at least sixty (60) feet from the intersection of any two (2) streets measured from the existing or planned right-of-way, whichever is greater.
- 16. Seasonal or year-round retail sales of plant materials not grown on site and sales of lawn furniture, playground equipment, and other merchandise or home garden supplies in the open, when accessory to a business within a building and when not located at the intersection of two (2) major thoroughfares.
- 17. Outdoor recreational space such as shuffleboard, miniature golf, and other similar recreation facilities, but not at the intersection of two (2) major thoroughfares. All such recreation space shall be adequately fenced on all sides with at least a four (4) foot high fence.
- 18. Boat launches, docks, waterfront parks, beaches and similar waterfront recreation uses:
  - a. Purpose The purpose of these regulations is to regulate the land-based improvements and activities related to various waterfront uses, so as to alleviate the impact on nearby properties, adjacent roads, and the community in general.
  - b. Site Plan Review and Building Permit Site plan review and approval shall be required prior to construction of any boat launch, dock, beach, waterfront park, or structure or improvement related thereto, except where such improvements are for the sole use of one (1) single-family residence. A building permit shall be required for any construction or other activity regulated by the building Code. Permits required by the Michigan Department of Natural Resources or other state agencies shall be a condition of approval granted under this section.
  - c. Parking Off-street parking shall be required in accordance with the following chart:

	<u>Residential</u>	<u>Commercial</u>
Boat Launch	6 spaces*	24 spaces*
Dock	1 per dock space	1 per dock space
Beach or Park	1 per 1,350 sq. ft. of site	1 per 1,350 sq. ft. of site

\*Combined 40-foot vehicle-trailer spaces shall be provided for boat launches. Such spaces shall be of a drive-through design, using a 45-degree layout.

Off-street parking shall comply with the requirements in Article 19.00. Off-street parking spaces shall not be located closer than twenty (20) feet to the road right-of-way line or the edge of the water.

- d. Maneuvering Lanes Maneuvering lanes for boat launches and parking areas shall be located completely on private property and not within the road right-of-way. Maneuvering lanes serving a boat launch shall be paved and shall comply with the following dimensional requirements:

	<u>Maneuvering Lane Width</u>
One-Way	15 Feet
Two-Way	22 Feet

A maneuvering lane shall extend on the land a minimum of sixty (60) feet in front of the boat launch to provide sufficient space for backing in and exiting from the launch.

- e. Pedestrian Access Sidewalks shall be required in accordance with Section 21.36. Pedestrian movement shall be insulated from vehicular traffic.
- f. Outside Storage Outside storage of boats, trailers, equipment, supplies, and debris shall be prohibited.
- g. Lighting All lighting shall be directed onto the site and shielded to prevent glare onto surrounding properties.
- h. Screening Whenever off-street parking areas are adjacent to land used or zoned for single-family residential purposes, a wall shall be provided along the sides of the parking area adjacent to such residential land in accordance with Section 21.14.

#### 19. Drive-Thru Restaurant

- a. Site must be located on a major thoroughfare.
- b. Buildings must be set back a minimum of 35' from the setback measurement line.
- c. Lots must have a minimum 150' frontage on the principal street serving said street.
- d. Shall not be located closer than 250' to any other drive-thru restaurant unless separated by a major road.
- e. Buildings must be set back a minimum of 40' from any residentially-zoned property.
- f. Speakers shall be muted so as to not be audible beyond any lot line, and shall be set back a minimum of 30' from residentially-zoned and.
- g. When adjacent to residentially-zoned land, there shall be a 6' decorative masonry wall and a 20' landscape setback.
- h. There shall be a 10' landscape setback from all side and rear yards.
- i. There shall be only one ingress/egress per street frontage, with no drive closer than 50' to any intersection.

#### 20. Bed and Breakfast Establishments:

- a. Bed and Breakfast establishments within the R1-B District shall be located on parcels within 150 feet of, and with direct access to, East Walled Lake Drive between Witherall and Leeds Roads.

- b. Sufficient off-street parking shall be provided at the rate of two (2) parking spaces plus one (1) space per double occupied room.
- c. No retail or other sales shall be permitted unless they are clearly incidental and directly related to the conduct of the Bed and Breakfast, including but not limited to the sale of goods directly related to the history of the City or locally produced items.
- d. One non-illuminated wall sign may be erected on the property, not to exceed six (6) square feet in size. The sign shall compliment the nature of the use; i.e. historic structures should have an historic style sign.
- e. No alteration to the exterior of the residential dwelling, accessory building, or yard that alters the residential character of the premises is permissible.
- f. No vehicle used in the conduct of the Bed and Breakfast may be parked, kept, or otherwise be present at the premises, other than such as are normally suitable for use for domestic or household purposes.
- g. Rooms utilized for sleeping shall be part of the primary residential structure and shall not have been specifically constructed for rental purposes.
- h. Rooms utilized for sleeping shall have no direct access to the outside.
- i. Not more than three (3) sleeping rooms may be used for such purposes.
- j. The proprietor or owner is required to occupy the property.
- k. There shall be no separate or additional kitchen facility for the guests.
- l. Meals shall be served only to residents and overnight guests.
- m. No exterior lighting, except as normally permitted for a typical single-family use, shall be permitted.
- n. A City business license is required.
- o. A Bed and Breakfast must comply with all other provisions of the zoning district in which it is located and must comply with all other ordinances of the City. Additionally, a Bed and Breakfast is subject to all other applicable local, county, state and federal regulations.
- p. A permit shall be obtained from the Director of Planning, or his or her designee. Such permit shall be revoked should the Bed and Breakfast at any time not meet the above conditions. Any permit to allow a Bed and Breakfast shall be issued for a period not to exceed two (2) years. Further, any permit shall become null and void after one (1) year from the date such permit is granted unless the Bed and Breakfast has been established and is operating.
- q. Any permit issued is nontransferable.
- r. Any other conditions deemed essential and desirable by the Planning Commission may be imposed on such a use.

- s. The use is subject to review at any time and may be revoked for cause by the Planning Commission. The term "cause" shall include, but not be limited to, operating the Bed and Breakfast in an unlawful manner or in such a manner as to constitute the maintenance of a nuisance upon or in connection with the Bed and Breakfast. For purposes of this Section, "nuisance" shall be given the normal and customary meaning, and shall include, but not be limited to, the following:
- (1) Existing violations of building, electrical, mechanical, plumbing, zoning, health, fire or other applicable regulatory codes.
  - (2) A pattern or practice of patron conduct, which is in violation of the law and/or interferes with the health, safety and welfare of other persons in the area.
  - (3) Failure after receiving notice from the City to maintain the grounds and exterior of the Bed and Breakfast, including frequent litter, debris or refuse blowing or being deposited upon adjoining properties.
  - (4) Failure by the owner and/or operator to permit the reasonable inspection of the Bed and Breakfast by the City's employees or agents in connection with the enforcement of this section.

21. Recovery Homes:

- a. The operation, establishment, substantial enlargement, or transfer of ownership or control of a recovery home shall be prohibited if the operation, establishment, enlargement, or transfer would substantially contribute to an excessive concentration of recovery homes within the city.
- b. All residents shall be a minimum of 18 years of age. All residents of a single home shall be of the same sex.
- c. Any person who submits an application to operate a recovery home shall include, at a minimum, the following information:
  - i. The total number of residents.
  - ii. Approximate duration of stay for residents.
  - iii. Method of payment for residents.
  - iv. Background of residents. Registered sex offenders and/or persons who have been convicted of a violent or assaultive crime are prohibited from residing in a recovery home.
  - v. Resident screening and acceptance procedures.
  - vi. Rules for personal behavior.
  - vii. Employment requirements.

- viii. A list of recovery services provided, such as 12-step, Narcotics Anonymous, Alcoholics Anonymous, outside counseling, job placement, transportation, etc.
  - ix. Security measures.
  - x. Number, training, and availability of staff. Appropriate staffing for the recovery home shall be provided.
  - xi. Rules for fraternizing and visitation.
  - xii. Resident discharge procedures (voluntary or involuntary termination).
  - xiii. Evidence of compliance with all building and fire safety regulations.
  - xiv. Any other measures determined necessary and appropriate to ensure compatibility of the proposed recovery home or supervised living facility with the surrounding area as determined by the Planning Commission.
  - xv. The current name and telephone number of the on-site manager or person responsible for the operation of the facility.
  - xvi. Complaint response procedures, including investigation, remedial action, and follow-up.
  - xvii. Litter control and noise-attenuation measures.
  - xviii. Any other information required by the Planning Commission.
- d. An initial list of current residents within the home must be provided to the Chief of Police, or his designee, at the time the home begins operation. An updated residency list must be submitted to the Chief of Police, or his designee, within three (3) days of any change in resident(s) within the home.
  - e. No alteration to the exterior of the residential dwelling, accessory building, or yard that alters the residential character of the premises is permissible.
  - f. No exterior lighting, except as normally permitted for a typical single family use, shall be permitted.
  - g. A recovery home must comply with all other provisions of the zoning district in which it is located and must comply with all other applicable City ordinances. Additionally, a recovery home must meet all requirements (including licensing and certification requirements) of all applicable local, county, state and federal regulations.
  - h. The Planning Commission may impose any other conditions it deems essential to protect the health, safety, and welfare of residents and the general public.

- i. The use is subject to review at any time and may be revoked for cause by the Planning Commission. The term "cause" shall include, but not be limited to, operating the recovery home in an unlawful manner or in such a manner as to constitute the maintenance of a nuisance upon or in connection with the recovery home. For purposes of this Section, "nuisance" shall be given the normal and customary meaning, and shall include, but not be limited to, the following:
  - (1) Existing violations of building, electrical, mechanical, plumbing, zoning, health, fire or other applicable regulatory codes.
  - (2) A pattern or practice of resident conduct which is in violation of the law and/or interferes with the health, safety and welfare of other persons in the area.
  - (3) Failure after receiving notice from the City to maintain the grounds and exterior of the recovery home, including frequent litter, debris or refuse blowing or being deposited upon adjoining properties.
  - (4) Failure by the owner and/or operator to permit the reasonable inspection of the recovery home by the City's employees or agents in connection with the enforcement of this section.

## **Section 21.30 -- PERFORMANCE GUARANTEES**

### **A. Required**

To insure compliance with this Ordinance and any conditions imposed under this Ordinance, including conditions of site plan approval, special approval, cluster development, planned development, and street access approval, the City Council, Planning Commission or Zoning Board of Appeals may require that financial security acceptable to the City be deposited with the City Clerk to insure faithful completion of improvements as defined in (b) below. The amount of the cash deposit, certified check, or irrevocable bank letter of credit shall cover the estimated cost of improvements associated with a project and other reasonable incidental costs associated therewith, for which approval is sought.

### **B. Improvements**

"Improvements" means those features and actions associated with a project which are considered necessary to protect natural resources, or the health, safety, and welfare of the residents of the City and future users or inhabitants of the proposed project or project area, including by way of example but not limitation roadways, lighting, utilities, landscaping, parking, paving of parking and circulation areas, screening, drainage and other similar site improvements. "Improvements" shall not include the entire project which is the subject of the approval.

### **C. Timing**

The performance guarantee along with a detailed description and schedule of improvements to be completed shall be deposited with the Clerk prior to the issuance of any Certificate of Occupancy authorizing use of the activity or project.

**D. Type**

The applicant shall be required to provide the performance guarantee or financial security in one or a combination of the following arrangements, whichever the applicant elects:

**1. Irrevocable letter of credit**

An irrevocable letter of credit issued by a bank authorized to do business in Michigan in an amount sufficient to cover the cost of the contemplated improvements as estimated by the City.

**2. Escrow fund**

A cash deposit, or deposit by certified check drawn on a bank authorized to do business in Michigan sufficient to cover the cost of the contemplated improvements as estimated by the City shall be deposited with the Clerk. The escrow deposit shall be for the time period necessary to complete the required improvements.

**E. Rebate**

In the case of cash deposits, the Clerk shall rebate or release to the applicant, as the work progresses, amounts equal to the ratio of the completed and accepted work to the entire project, after approvals described below.

**F. Inspection and Certification**

Inspection and certificate of acceptance of private improvements shall be as follows:

**1. Inspection of Public Improvements by the City Engineer or Building Department.**

After the completion of the construction of the required public improvements, the Engineer or Building Inspector, or the County, State or Federal agency with jurisdiction to grant approval or accept, shall conduct a final inspection and certify compliance with the required Improvements. This inspection shall be made to assure the Improvements are completed according to the approved plans and specifications.

**2. Certification by the Building Department.**

The applicant shall furnish the Clerk a letter or document signed by the Building Inspector indicating satisfactory completion of the required Improvements.

**G. Failure**

In case the applicant shall fail to complete the required improvements or work within such time period as required by the conditions or guarantees as outlined above, the City Council may proceed to have such work completed and reimburse itself for the cost thereof, including all administrative costs, by appropriating the cash deposit or certified check, or by drawing upon the letter of credit.

**H. Maintenance Bond**

The City may require, prior to the acceptance by the City of public improvements, a maintenance bond acceptable to the City for a period of up to three years in an amount not to exceed (35%) of the total cost of the public improvements.

**I. Subdivisions.**

This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to the Subdivision Control

Act, No. 288 of the Public Acts of 1967, as amended, being Section 560.101 to 560.293 of the Michigan Compiled Laws.

## **Section 21.31 -- COMMERCIAL AND UNLICENSED VEHICLES IN RESIDENTIAL AREAS**

### **A. Purpose**

The purpose of restrictions on commercial and unlicensed vehicles is to preserve the health, safety and general welfare of persons and property in residential areas designed and utilized for residential development by regulating the parking of certain large commercial vehicles which frequently are impediments to the ingress and egress of emergency and fire protection vehicles and equipment, which are frequently unsafe when operated on residential streets, and the noise, exhaust emissions and appearance of which tend to impair the health, safety and general welfare of the people of the City.

### **B. Residential Parking Prohibited**

No commercial vehicle of any kind, except a truck not exceeding ten thousand (10,000) pounds gross vehicle weight, shall be parked in a residentially zoned or used area. Provided, however, this provision shall not apply to commercial vehicles temporarily parked (less than eight (8) hours) in a residential area in conjunction with maintenance or service to a residential property. No unlicensed vehicle of any kind shall be parked or stored outside in any residentially zoned or used area.

### **C. Presumption of Ownership**

In any proceeding for violation of any parking provision of this section, the person to whom a commercial vehicle is registered, as determined from the registration plate displayed on said motor vehicle, or the person who owns the property on which an unlicensed vehicle is located, shall be presumed in evidence to be the person who committed the violation charged.

## **Section 21.32 -- ADULT-REGULATED USES**

### **A. Intent and Rationale**

In the development and execution of this Ordinance and this Section, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having deleterious effect upon adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting, deteriorating and/or down-grading of the area, and that area adjacent thereto. These special regulations are itemized in this Section. The City believes that control or regulation is for the purpose of preventing a concentration of these uses in any one area, i.e., not more than one such use within 750 feet of another such use.

It is further recognized in the development of this Ordinance that the prohibition against the establishment of more than one adult/regulated use within 750 feet of each other serves to avoid the clustering of a blighted or deteriorated area frequented by vagrants, and the like; such prohibition further serves to avoid the deleterious effects of blight and devaluation of both business and residential property values resulting from the establishment of Adult Regulated Uses (as defined in this Ordinance) immediately adjacent to residential neighborhoods; such prohibition further serves to prevent the deleterious effect of blight and devaluation that may be caused by these uses.

It is further recognized in the development of this Ordinance and this Section that concern for, and pride in, the orderly planning and development of the neighborhood and area should be encouraged and

fostered in those persons who comprise the business and residential segments of that neighborhood and area.

**B. Itemization of "Adult Regulated Uses"**

Uses subject to the controls set forth in this Section shall be as follows, and are referred to herein as "Adult Regulated Uses":

1. Adult Book Store
2. Adult Mini-Motion Picture Theater
3. Adult Motion Picture Theater
4. Amusement Gallery
5. Cabaret
6. Halfway House
7. Massage Parlor
8. Modeling Studio
9. Tattoo Parlor
10. Any use defined as "Adult Regulated Uses" in Article 2.00, Section 2.02 of this ordinance.

**C. Prohibition**

Unless and until approval is first sought and obtained hereunder, it shall be unlawful to hereafter establish any Adult Regulated Use (as defined herein).

**D. Requirements**

1. The adult regulated use shall be located only in the C-2 General Commercial Districts.
2. The structure of any adult regulated use shall be at least 750 feet from the nearest property line of any public, private or parochial school, library, park, playground or other recreational facility which admits minors, day-care center, or nursery schools; and at least 750 feet from the nearest property line of any church, convent, monastery, synagogue, or other similar place of worship, except as provided below.
3. Application to establish any adult regulated use shall not be approved if there is already in existence another adult regulated use, or if a site plan has been approved for one or more adult regulated uses, within 750 feet of the boundaries of the site of the proposed adult regulated use, except as provided below.
4. The measurement used to determine the application of any of the above restrictions shall be made from the nearest boundary line of the proposed adult regulated use on a plane to the nearest boundary line of the use in connection with which the measurement is being taken.

**E. Application and Review**

1. Any person desiring to establish an adult regulated use shall submit an application for special approval to the City Clerk, who shall place the application on the Planning Commission agenda for formal receipt at the next regular Planning Commission meeting.
2. A date for public hearing shall be set by the Planning Commission. The City Council may order a joint meeting with the Planning Commission for its input if the Council believes such information would allow greater factual information. The public hearing of the Planning Commission, whether jointly with the Council or not, shall be conducted as soon as reasonably possible, and in any event shall not exceed 75 days from the filing of the application. Notice of public hearing shall be published mailed and delivered as required by the same procedures as for special approval in this Ordinance pursuant to Section 21.29.
4. The Planning Commission may approve the application if all of the following findings are made:
  - a. All locational requirements of this Section are met.
  - b. The site layout and its relation to streets giving access to it, shall be such that vehicular and pedestrian traffic to and from the use or uses, and the assembly of persons in connection therewith, will not be clearly hazardous, dangerous, or inconvenient to the neighborhood. In applying this standard the City shall consider, among other things: convenient routes for pedestrian traffic, the relationship of the proposed use to main vehicular traffic thoroughfares and to streets and road intersections, and the general nature and intensity of the existing and potential development of the neighborhood. The Commission shall determine that the proposed use will not have a clear detrimental effect.
  - c. The proposed use will not clearly cause a nuisance and/or harm the public health, safety and general welfare and/or cause an unreasonable diminution in the value of other property in the immediate area.
5. The Planning Commission may waive the locational provision requiring minimum distances between adult regulated uses and a public, private or parochial school, library, park, playground, or other recreational facility, which admits minors, day-care center or nursery school, church, convent, monastery, synagogue, or other similar place of worship, if all of the following findings are made after public hearing:
  - a. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this Ordinance will be observed;
  - b. That the proposed use will not contribute to, create, enlarge and/or encourage a blighted or deteriorated area;
  - c. That the establishment of an additional adult regulated use in the area will not be contrary to any program of neighborhood conservation, nor will it interfere with any program of urban renewal;
  - d. That all applicable regulations of this Ordinance will be observed;
  - e. That there is no other reasonable location in the City at which the use is suited.
6. Prior to granting a permit for any adult regulated use, the Planning Commission may impose any such conditions or limitations authorized by law or by this Ordinance in connection with the grant of special approval pursuant to the procedures and standards in Section 21.29 and the standards in this Section.

**F. Discontinuance**

Any adult regulated use may not be re-established after discontinuance for a period of 90 consecutive days without a new grant of approval by the City.

**Section 21.33 -- HOME OCCUPATIONS (amended eff. Nov. 2000)**

Home occupations, as defined herein, shall be permitted in all residential districts subject to the following minimum requirements:

- A. That such occupation is incidental to the residential use to the extent that not more than twenty (20) percent of the useable floor area of the principal building shall be occupied.
- B. That no article or service is sold or offered for sale on the premises except such as is produced by such occupation.
- C. No home occupation shall be conducted in any accessory building.
- D. Such occupation shall not require internal or external alterations or construction features, equipment, machinery, outdoor storage, or signs not customarily in residential areas.
- E. No home occupations shall generate other than normal residential traffic either in amount or type.
- F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- G. All home occupations shall be allowed a two (2) square foot wall plaque announcing said home occupation.
- H. Parking needs generated by a home occupation shall be provided for in an off-street parking area, located other than in a required front yard.

**Section 21.34 -- SCREENING OF ROOF APPLIANCES OR ACCESSORIES**

In all zone districts, roof appliances such as, but not limited to, cooling towers, air conditioners, heating apparatus, dust collectors, filters, transformers and any other such appliance or apparatus, other than flag poles, chimneys for carrying products of combustion and radio antenna towers, except solar collectors, shall be enclosed with opaque screens not less in height than the height of the highest appliance, as measured from the plane of the roof surface upon which the screen device is mounted to the top of the highest appliance. However, if the screening device is mounted on the top of the parapet or other part of the building facade which extends above the roof surface, the height of the parapet or other part of the building facade extending above the roof surface and the screening device is equal to the height of the highest appliance, such walls may be lowered to permit passage of air for cross ventilation, but shall be adequate to totally screen such equipment from view. The design of the screening device shall be compatible with the architectural design of the building upon which it is located.

**Section 21.35 -- LANDSCAPE REQUIREMENTS**

Landscaping, greenbelts, and screening are necessary for the continued protection and enhancement of all land uses. Landscaping and greenbelts are capable of enhancing the visual image of the City, preserving natural features, improving property values, and alleviating the impact of noise, traffic, and visual distraction associated with certain uses. Screening is important to protect less-intensive uses from the noise, light, traffic, litter and other impacts of more intensive, nonresidential uses. Accordingly, the provisions set forth herein are intended to set minimum standards for the design and use of landscaping, greenbelts, and screening, and for the protection and enhancement of the City's environment.

**A. Scope of Application**

The requirements set forth herein shall apply to all uses which are developed, expanded, or changed, and to all lots, sites, and parcels which are developed or expanded upon following the effective date of this Ordinance. No site plan shall be approved unless said site plan shows landscaping consistent with the requirements of this section. Where landscaping is required, a building permit shall not be issued unless provisions set forth in this section have been met or a performance guarantee has been posted in accordance with the provisions set forth in Section 12.30.

**B. Minimum Requirements**

The requirements set forth herein are minimum requirements, and nothing herein shall preclude the developer and the City from agreeing to more extensive landscaping.

**C. Modifications to Requirements**

In consideration of the overall design and impact of the landscape plan, and in consideration of the amount of existing plant material to be retained on the site, the Planning Commission may reduce or waive specific requirements outlined herein, provided that any such adjustment is in keeping with the intent of this Section and the Ordinance in general.

**D. Landscaping Requirements**

**1. General Requirements.**

All developed portions of the site shall conform to the following general landscaping standards, except where specific landscape elements, such as a greenbelt, berms or screening are required.

- a. All unpaved portions of the site shall be planted with grass, ground cover, shrubbery, or other suitable live plant material.
- b. A mixture of evergreen and deciduous trees shall be planted at the rate of one (1) tree per 3,000 square feet or portion thereof of unpaved open area. Required trees may be planted at uniform intervals, at random, or in groupings.
- c. All required landscaping shall be served by an in-ground sprinkling system.
- d. Landscaped areas which adjoin paved parking or driveways shall be protected with curbs from encroachment of vehicles.
- e. A three (3) foot wide hard-surfaced splash area, consisting of paving brick, cobblestone, or similar material (but not including asphalt), shall be installed in the road right-of-way along the curb edge, plus along both sides of any driveway approach, pursuant to the design and installation standards maintained by the City. The splash area shall extend to the edge of the existing or proposed sidewalk, or, if no sidewalk is proposed, to the existing road right-of-way. The splash area is required so as to provide consistent attractive appearance

adjacent to road sides in Walled Lake which are subject to salt spray and other traffic impacts which prevent the healthy growth of sod and landscaping.

**2. Greenbelts.**

In addition to locations specified elsewhere in this ordinance, a greenbelt shall be required in any front, side, or rear yard that is adjacent to a road. Notwithstanding this requirement, greenbelts shall be required in the Mobile Home Park District only as specified in Section 12.04(c)1. Greenbelts shall conform to the following requirements:

- a. A required greenbelt or greenbelt buffer may be interrupted only to provide for pedestrian or vehicular access.
- b. Grass, ground cover, or other suitable live plant material shall be planted over the entire greenbelt area, except where paved walkways are used.
- c. A minimum of one (1) deciduous or evergreen tree shall be planted for each thirty (30) lineal feet or portion thereof of required greenbelt length, or alternatively, eight (8) shrubs may be substituted for each required tree.
- d. Plant materials shall not be placed closer than four (4) feet to the property line or right-of-way when a greenbelt abuts a public sidewalk.
- e. For the purposes of calculating required plant material, greenbelt length shall be measured along the exterior edge of the greenbelt.

**3. Berms.**

In addition to locations specified elsewhere in this ordinance, a berm shall be required in any front, side, or rear yard that is used for parking and is adjacent to a road. Notwithstanding this requirement, berms shall be required in the Mobile Home Park District only as specified in Section 12.04(c)1. Berms shall conform to the following requirements:

- a. Required berms shall be at least two (2) feet above grade elevation, and shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal, with at least a two (2) foot flat area on the top.
- b. Required berms shall be planted with grass, ground cover, or other suitable plant material to protect it from erosion so that it retains its height and shape.
- c. Unless otherwise specified (such as for the purposes of screening), berms shall be planted in accordance with the requirements for greenbelts (Item 2, above).
- d. For the purposes of calculating required plant material, berm length shall be measured along the exterior edge of the berm.

**4. Parking Lot Landscaping.**

In addition to screening which may be required around off-street parking areas, all off-street parking areas shall also provide landscaping as indicated in Section 19.04.

**5. Evergreen Landscaped Screening.**

- a. Parking located in front or on the side of a building shall be screened from the road with a three (3) foot high red or brown brick wall, evergreen landscaping, or an approved alternative. Appropriate species for a three (3) foot high evergreen hedge include:

- i. Yew (*Taxus x media*) - appropriate cultivars include Browni, Densiformis, Hartfield, Hicks
- ii. Dwarf Mugo Pine (*Pinus mugo*)
- iii. Arborvitae (*Thuja occidentalis*) - appropriate cultivars include Globosa, Techny
- iv. Canadian Hemlock (*Tsuga canadensis*)

Use of dwarf species is recommended in the interest of minimizing pruning and maintaining the natural form of the plant material.

- b. Wherever an evergreen or landscaped screen is required, other than to screen parking from the road, the evergreen screening shall consist of closely spaced plantings which form a complete visual barrier that is at least five (5) feet above ground level at the time of planting. Appropriate species for such purposes include:
  - i. Arborvitae (*Thuja occidentalis*) - appropriate cultivars include Pyramidalis, Nigra
  - ii. Eastern Red Cedar (*Juniperus virginiana*)
  - iii. Chinerie Juniper (*Juniperus chinensis*)
  - iv. White Spruce (*Picea glauca*) or Serbian Spruce (*Picea omorika*) - an effective screen requires two rows, staggered.
  - v. An approved alternative.

**6. Landscaping of Rights-of-Way.**

Public rights-of-way located adjacent to required landscaped areas and greenbelts shall be planted with grass or other suitable live ground cover, and shall be maintained by the owner or occupant of the adjacent property as if the rights-of-way were part of the required landscaped areas or greenbelts.

**7. Maintenance of Unobstructed Visibility for Drivers.**

Where a driveway intersects a public right-of-way or where a site abuts the intersection of public rights-of-way, all landscaping within the corner triangular areas described below shall permit unobstructed cross-visibility for drivers. Shrubs and portions of required berms located in the triangular area shall not be permitted to grow to a height of more than thirty (30) inches above the pavement grade at the edge of the pavement. Trees may be maintained in this area provided that all branches are trimmed to maintain a clear vision to a height of eight (8) feet above the pavement grade at the edge of the pavement. The triangular areas referred to above are:

- a. The area formed at the corner intersection of a public right-of-way and a driveway, two sides of the triangle being ten (10) feet in length measured along the right-of-way line and driveway line and the third side being a line connecting these two sides.
- b. The area formed at the corner intersection of two (2) public right-of-way lines, the two (2) sides of the triangular area being thirty (30) feet in length measured along the intersecting public rights-of-way lines and the third side being a line connecting these two sides.

**E. Standards for Landscape Materials**

Unless otherwise specified, all landscape materials shall comply with the following standards:

**1. Plant Quality.**

Plant materials used in compliance with the provisions of this Ordinance shall be nursery grown, free of pests and diseases, hardy in Oakland County, in conformance with the standards of the American Association of Nurseryman, and shall have passed inspections required under state regulations. The following plant list, although not intended to be all-inclusive, contains recommended trees and shrubs which would generally be considered suitable in meeting the landscaping requirements set forth herein.

**2. Non-Living Plant Material.**

Plastic and other nonliving plant materials shall not be considered acceptable to meet the landscaping requirements of this Ordinance.

**3. Plant Material Specifications.**

The following specifications shall apply to all plant material proposed in accordance with the landscaping requirements of this Ordinance:

- a. Deciduous shade trees shall be a minimum of two and one-half (2 ½) inches in caliper measured twelve (12) inches above grade with the first branch a minimum of four (4) feet above grade when planted.
- b. Deciduous ornamental trees shall be a minimum of two (2) inches in caliper measured twelve (12) inches above grade with a minimum height of four (4) feet above grade when planted.
- c. Evergreen trees shall be a minimum of six (6) feet in height, measured from grade to top break, when planted, except that juniper, yew and arborvitae species shall be a minimum of three (3) feet in height when planted. Furthermore, evergreen trees shall have a minimum spread of three (3) feet, and the size of the burlapped root ball shall be at least ten (10) times the caliper measured six (6) inches above grade.
- d. Shrubs shall be a minimum of two (2) feet in height when planted. Low growing shrubs shall have a minimum spread of twenty-four (24) inches when planted.
- e. Hedges shall be planted and maintained so as to form a continuous, unbroken, visual screen within two (2) years after planting.
- f. Vines shall have a minimum of three (3) runners, six (6) inches to eight (8) inches long when installed, and be a minimum of thirty (30) inches in length after one growing season.
- g. Ground cover used in lieu of turf grasses in whole or in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one (1) complete growing season.
- h. Grass area shall be planted using species normally grown as permanent lawns in Oakland County. Grass, sod, and seed shall be clean and free of weeds, noxious pests, and diseases. Straw or other mulch shall be used to protect newly seeded areas.
- i. Mulch used around trees, shrubs, and vines shall be a minimum of three (3) inches deep, and installed in a manner as to present a finished appearance.

**RECOMMENDED PLANT LIST  
SIZE AND SCREENING REQUIREMENTS**

Recommended Plants	Minimum Size Allowable						Acceptable for Screening		
	Caliper <sup>3</sup>		Height <sup>4</sup>			Spread		Parking Lot or Transformer	All Other
	2"	2.5"	2'	3'	6'	2'	3'		
<b>Deciduous Trees (shade/canopy)</b>									
Maple		T							
Oak		T							
Locust		T							
Linden		T							
Ash		T							
Gingko (male only)		T							
London Plane <sup>5</sup>		T							
Dawn Redwood <sup>5</sup>		T							
<b>Evergreen Trees</b>									
Pine <sup>1</sup>					T				
Fir					T				
Spruce					T				•
Hemlock				X <sup>2</sup>	T			X <sup>2</sup>	
Juniper					T				
<b>Ornamental Trees</b>									
Flowering Crabapple	T								
Dogwoods	T								
Birch (selected varieties)	T								
Magnolia	T								
Fruit (Pear, Cherry, Plum, Peach)	T								
Serviceberry	T								
Hawthorne (thornless varieties)	T								
Hornbeam	T								
Beech	T								

T = Minimum Allowable Size

X = Minimum Allowable Size for Parking Lot or Transformer Screening

• = Minimum Allowable Size for All other Screening

<sup>1</sup> Austrian and Scotch Pines should be used with discretion.

<sup>2</sup> Canadian Hemlock, 3-ft. height, can be used for parking lot screen.

<sup>3</sup> Measured one foot above approved graded.

<sup>4</sup> Height is measured from grade to top break

<sup>5</sup> London Plane trees and Dawn Redwoods shall be planted at least 20 ft. from buildings and pavement

Recommended Plants	Minimum Size Allowable						Acceptable for Screening		
	Caliper <sup>3</sup>		Height <sup>4</sup>			Spread <sup>6</sup>		Parking Lot or Transformer	All Other
	2"	2.5"	2'	3'	6'	2'	3'		
<b>Shrub Like Trees</b>									
Redbud					T				
Hawthorn					T				
Amur Maple					T				
Dogwood					T				
Osage Orange					T				
<b>Evergreen Shrubs</b>									
Yews			T	X		T		X	
Arborvitae			T	X	•			X	
Junipers			T	X	•	T		X	
Mugho Pine			T	X				X	
Boxwood			T	X					
Rhododendron			T						
<b>Deciduous Shrubs</b>									
Lilac			T						
Forsythia			T						
Euonymous (selected varieties)			T						
Cotoneaster (selected varieties)			T						
Dogwood			T						
Hydrangea			T						
Beauty bush			T						
Privet			T						
Mock Orange			T						
Althea (Rose-of-Sharon)			T						
Potentilla			T						
Spiraea			T						

T = Minimum Allowable Size

X = Minimum Allowable Size for Parking Lot or Transformer Screening

• = Minimum Allowable Size for All other Screening

<sup>3</sup> Caliper is measured one foot above approved graded.

<sup>4</sup> Measured from grade to top break

<sup>6</sup> Minimum spread applies to plants with horizontal habit

Recommended Plants	Minimum Size Allowable							Acceptable for Screening	
	Caliper <sup>3</sup>		Height <sup>4</sup>			Spread		Parking Lot or Transformer	All Other
	2"	2.5"	2'	3'	6'	2'	3'		
<b>Deciduous Shrubs</b>									
Viburnum			T						
Wiegela			T						
Honeysuckle			T						
Buckthorne			T						
Flowering Quince			T						
Barberry			T						
Pyracantha (Apache and Mohave)			T						
Hollies			T						

T = Minimum Allowable Size

X = Minimum Allowable Size for Parking Lot or Transformer Screening

• = Minimum Allowable Size for All other Screening

<sup>3</sup> Measured one foot above approved graded.

<sup>4</sup> Height is measured from grade to top break

**F. Installation and Maintenance.**

The following standards shall be observed where installation and maintenance of landscape materials is required:

**1. Installation.**

Landscaping shall be installed in a sound, workmanlike manner to ensure the continued growth of healthy plant material.

**2. Protection from Vehicles.**

Landscaping shall be protected from vehicles through use of wheel stops or other means. Landscape areas shall be elevated above the pavement to a height adequate to protect the plants from snow removal, salt, and other hazards.

**3. Off-Season Planting Requirements.**

If development is completed during the off-season when plants cannot be installed, the owner shall provide a performance bond to ensure installation of required landscaping in the next planting season.

**4. Maintenance.**

Landscaping required by this Ordinance shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. All unhealthy and dead plant material shall be removed within thirty (30) days following City notification and replaced in the next appropriate planting period. The landscape plan shall indicate the individual(s) or business(es) who will be responsible for continued maintenance of the landscaping. Those charged with this responsibility shall also be responsible for maintenance of adjacent landscaped areas in public rights-of-way.

In the event the owner fails to maintain the landscaping area in a neat and orderly manner, free from debris, the Building Inspector shall mail to the owner a written notice setting forth the manner in which there has been failure to maintain said landscaping and require that the

deficiencies of maintenance be cured within thirty (30) days from date of said notice. If the deficiencies set forth in the notice shall not be cured within thirty (30) days, or any extensions thereof granted by the Planning Commission, the City shall have the right to enter upon such property and correct such deficiencies and the costs thereof shall be charged, assessed and collected pursuant to the Municipal Code.

**G. Treatment of Existing Plant Material.**

The following regulations shall apply to existing plant material:

**1. Consideration of Existing Elements in the Landscape Design.**

In instances where healthy plant material exists on a site prior to its development, the Planning Commission may permit substitution of such plant material in place of the requirements set forth previously in this Section, provided such substitution is in keeping with the spirit and intent of this Section and the Ordinance in general.

**2. Preservation of Existing Plant Material.**

Site plans shall show all existing trees which are located in the portions of the site that will be built upon or otherwise altered, and are five (5) inches or greater in caliper, measured twelve (12) inches above grade.

Trees shall be labeled "To Be Removed" or "To Be Saved" on the site plan. If existing plant material is labeled "To Be Saved" on the site plan, protective measures should be implemented, such as the placement of fencing or stakes at the dripline around each tree. No vehicle or other construction equipment shall be parked or stored within the dripline of any tree other plant material intended to be saved.

In the event that healthy plant materials which are intended to meet the requirements of the Ordinance are cut down, damaged or destroyed during construction, said plant material shall be replaced in accordance with the following schedule, with the same species as the damaged or removed tree, unless otherwise approved by the Planning Commission.

**Caliper Measured 12 Inches Above Grade**

<b><u>Damaged Tree</u></b>	<b><u>Replacement Tree</u></b>	<b><u>Replacement Ratio</u></b>
Less than 6 inches	22 to 3 inches	1 for 1
More than 6 inches	22 to 3 inches	1 replacement tree for each 6 inches in caliper or fraction thereof of damaged tree

**H. Undesirable Plant Materials**

Use of the following plant materials (and/or their clones and cultivars) is not encouraged because of susceptibility to storm damage, disease, and/or other undesirable characteristics:

- |                  |                   |
|------------------|-------------------|
| Silver Maple     | Box Elder         |
| Tree of Heaven   | European Barberry |
| Northern Catalpa | Eastern Red Cedar |
| Poplar           | Willow            |
| American Elm     |                   |

**I. Variances from Landscape Regulations**

Where conditions on the site present practical difficulties to complying with the landscape regulations, the applicant may petition the Zoning Board of Appeals for a variance or variances from the regulations.

In determining whether a variance is appropriate, the Zoning Board of Appeals shall consider whether the following conditions exist.

1. Topographic features or other unique features of the site create conditions such that strict application of the landscape regulations would result in a less effective screen than an alternative landscape design.
2. Parking, vehicular circulation, or land use are such that required landscaping would not enhance the site or result in the desired screening effect.
3. The public benefit intended by the landscape regulations could be better achieved with a plan that varies from the strict requirements of the Ordinance.

## **Section 21.36 -- SIDEWALKS OR SAFETY PATHS**

For all developments requiring site plan approval, a new public sidewalk or safety path shall be constructed in accordance with City engineering standards along any road right-of-way. In the event that sidewalks or safety paths already exist, they shall be repaired or reconstructed as necessary. Sidewalks and safety paths shall be five (5) feet in width and constructed of concrete, and they shall be located one (1) foot off of the property line in the right-of-way. Where a "Setback Measurement Standard" is specified on the adopted Zoning Map, the sidewalk or safety path shall be located one (1) foot from the Setback Measurement Standard line. New or reconstructed sidewalks or safety paths shall be aligned with existing or proposed sidewalks or safety paths on adjoining parcels. Sidewalks or safety paths shall be continuous across driveways; in such locations, the sidewalks or safety paths shall be constructed of six (6) inch thick reinforced concrete.

## **Section 21.37 -- ONE SINGLE-FAMILY DWELLING PER LOT**

Except in the instance of cluster developments or condominium developments where a site plan is approved by the Planning Commission and except for lots used for education or religious institutions, not more than one (1) single-family dwelling shall be located on a lot as defined herein, nor shall a single-family dwelling be located on the same lot with another principal building. This provision shall not prohibit the lawful division of land. 5 67 Section 21.38. KEEPING OF FARM ANIMALS AND OTHER ANIMALS. The keeping, raising, or breeding of animals including farm animals and non-domestic animals and reptiles (except domesticated cats, dogs, canaries, parakeets, parrots, gerbils, hamsters, guinea pigs, turtles, fish, rabbits and similar animals commonly kept as pets) shall be prohibited, except as may be permitted by and under conditions of public safety, comfort, convenience and quiet use of property imposed by the Zoning Board of Appeals. The Zoning Board of Appeals may permit up to five (5) horses, subject to the minimum land area of three (3) acres per horse.

## **Section 21.38 -- KEEPING OF FARM ANIMALS AND OTHER ANIMALS**

The keeping, raising, or breeding of animals including farm animals and non-domestic animals and reptiles (except domesticated cats, dogs, canaries, parakeets, parrots, gerbils, hamsters, guinea pigs, turtles, fish, rabbits and similar animals commonly kept as pets) shall be prohibited, except as may be permitted by and under conditions of public safety, comfort, convenience and quiet use of property imposed by the Zoning Board of Appeals. The Zoning Board of Appeals may permit up to five (5) horses, subject to the minimum land area of three (3) acres per horse.

## **Section 21.39 -- DUMPSTERS OR OUTDOOR TRASH RECEPTACLES**

Dumpsters may be permitted or required as accessory to any use other than single and two-family residential uses, subject to the following conditions:

**A. Location (amended eff. Nov. 2000)**

Dumpsters shall be located to the rear of the principal building, provided any such dumpster shall not encroach on a required parking area and is clearly accessible to servicing vehicles. Dumpsters and dumpster screening shall be located at least five (5) feet from any property line. On corner lots, dumpster and dumpster screening shall be no closer to the street right-of-way than the building.

**B. Concrete Pad**

Dumpsters shall be placed on a concrete pad. The concrete pad should extend a minimum of five (5) feet in front of the dumpster enclosure.

**C. Screening**

Dumpsters shall be screened from view from adjoining property and public streets and thoroughfares. Dumpsters shall be screened on three sides with a permanent building, decorative masonry wall or wood fencing, not less than six (6) feet in height or at least one (1) foot above the height of the enclosed dumpster, whichever is taller. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other three sides.

**D. Wood Screening Standards**

If wood fencing is selected as the desired dumpster screening alternative, the following standards shall apply:

**1. Materials**

Only solid No. 1 pressure-treated wood or comparable wood material shall be permitted.

**2. Posts**

Posts shall be set in concrete 42 inches below grade level. Two types of posts shall be permitted: (1) 6 inch x 6 inch pressure-treated wood, or (2) 3 inch diameter galvanized steel posts.

**E. Bollards**

Bollards (concrete filled metal posts having a minimum diameter of four (4) inches) or similar protective devices shall be installed at the opening to prevent damage to the screening wall or fence.

**F. Site Plan Requirements**

The location and method of screening of dumpsters shall be shown on all site plans and shall be subject to the approval of the Planning Commission.

**G. Maintenance**

Dumpsters and dumpster screening and the surrounding area shall be maintained in a neat and orderly appearance, free from uncontained waste or debris. This maintenance shall be the responsibility of the owner of the premises on which the dumpster is placed.

## **Section 21.40 -- PERFORMANCE STANDARDS**

Notwithstanding any other provision of this Ordinance, no use shall be permitted within any district which does not conform to the following standards, which standards are hereby established as the minimum requirements to be maintained in any district:

**A. Smoke**

It shall be unlawful for any person, firm or corporation to permit the emission of any smoke from any source whatever to a density greater than that density described as No. 1 of the Ringlemann Chart, provided that the following exceptions shall be permitted: smoke, the shade or appearance of which is equal to but not darker than No. 2 of the Ringlemann Chart for a period, or periods, aggregating four (4) minutes in any thirty (30) minutes.

Method of Measurement: For the purpose of grading the density of the smoke, the Ringlemann Chart, as published and used by the United States Bureau of Mines, is hereby made a part of this Ordinance and shall be the standard of measurement used in this Ordinance. Nevertheless, the Umbrascop readings of smoke densities may be used when correlated with Ringlemann's Chart.

**B. Dust, Dirt and Fly Ash**

1. No person, firm or corporation shall operate or cause to be operated, maintain or cause to be maintained, any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating, while using said process or furnace or combustion device, recognized and approved equipment, means, method, device or contrivance to reduce the quantity of gas borne or airborne solids or fumes emitted into the open air, which is operated in conjunction with said process, furnace, or combustion device so that the quantity of gasborne or airborne solids shall not exceed 0.20 grains per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.
2. Method of Measurement: For the purpose of determining the adequacy of such devices, these conditions are to be conformed to when the percentage of excess air in the stack does not exceed fifty (50) percent at full load. The foregoing requirement shall be measured by the A.S.M.E. Test Code for dust-separating apparatus. All other forms of dust, dirt and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The Building Inspector may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust, dirt and fly ash have been made.

**C. Glare and Radioactive Materials**

Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, and including electro magnetic radiation such as x-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

**D. Fire and Explosive Hazards**

1. In the I-1 District, the storage, utilization or manufacture of materials or products ranging from incombustible to moderate burning, as determined by the Fire Marshal, is permitted subject to compliance with all other performance standards above mentioned. The following shall define the ranges of burning:
  - a. Intense burning materials which by virtue of low ignition temperature, high rate of burning and large heat evolution, burn with great intensity. An example would be Manganese.

- b. Free and active burning materials are materials constituting an active fuel. Free burning and active burning is the rate of combustion described by a material which burns actively and easily supports combustion. An example would be fuel oil.
  - c. Moderate burning implies a rate of combustion described by material which supports combustion and is consumed slowly as it burns. An example would be coal.
2. The storage, utilization or manufacture of materials, goods or products ranging from free or active burning to intense burning, as determined by the Fire Marshal, is permitted subject to compliance with all other yard requirements and performance standards previously mentioned, and providing that the following conditions are met:
- a. Said materials or products shall be stored, utilized or produced within completely enclosed buildings or structures having incombustible exterior walls, which meet the requirements of Building Code of the City of Walled Lake. (Chapter 98).
  - b. All such buildings or structures shall have a setback of at least forty (40) feet from lot lines thereof. All such buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by the National Fire Association.
  - c. The storage and handling of flammable liquids, liquefied petroleum, gases and explosives shall comply with the State Rules and Regulations as established by 1941 P.A. 207, as amended.

**E. Noise**

All mechanical noise shall be muffled so as not to become objectionable to areas zoned for residential use due to intermittence, beat frequency or shrillness. Noise may equal but shall not exceed average street traffic noise. Measurement of noise levels shall be made at the zoning district boundary and shall not exceed the sound level of the abutting use district or the street abutting such use, whichever is the greater.

**F. Odors and Fumes**

Creation of offensive odors and fumes shall be prohibited.

**G. Wastes**

No waste shall be discharged in the public sewer system which, in the determination of the City Engineer, is dangerous to the public health and safety.

**H. Vibration**

All stamping machines, punch presses, press breaks and similar machines or machines which cause vibrations shall be mounted on shock-absorbing mountings on suitable reinforced concrete footings. Stamping machines, punch presses, press breaks and similar machines shall be located no closer to residential districts than the following:

- 1. Up to ten (10) ton, with eighteen (18) gauge stock or less in thickness when located one hundred fifty (150) feet from any residential district.
- 2. Up to fifty (50) ton when two hundred (200) feet from any residential district. 3. Up to one hundred (100) ton when two hundred fifty (250) from any residential district.

3. Up to one hundred (100) ton when two hundred fifty (250) from any residential district.
4. Up to two hundred (200) ton when three hundred (300) feet from any residential district.

In those instances where the abutting zoning district is residential, walls enclosing such machines shall be constructed with no openings on the side abutting residential districts.

## **Section 21.41 -- LIMITATIONS ON OUTSIDE STORAGE OR OPERATION**

Unless specifically provided otherwise in this Ordinance, all businesses, servicing or manufacturing, except off-street parking and loading, shall be conducted within a completely enclosed building; and no outdoor storage or display of any kind shall be permitted.

## **Section 21.42 -- SERVICE ROADS**

If the Planning Commission determines that proposed or anticipated development will result in an excessive number of entrance or exit drives onto a public road, thereby creating potentially hazardous traffic conditions and/or diminishing the carrying capacity of the public road, the Commission may require construction of private service roads on abutting parcels to allow traffic circulation from one parcel to another without re-entering the public road. Private roads are also permitted in commercial and industrial districts to provide access to parcels that do not have frontage on a public road. Such roads shall conform to the following specifications:

### **A. Location and Dimensions**

The front edge of a private service road located parallel to a public road shall be located no closer than the future right-of-way line of the public road, and shall be at least twenty-four (24) feet in width.

### **B. Easement**

Use of a private service road shall be secured through an easement permitting the use of the road for traffic circulation from one parcel to another. Said easement shall be in written form acceptable to the Planning Commission, and shall be recorded with the Oakland County Register of Deeds. The easement shall cover the full width of the road plus related drainage and stormwater detention/retention ponds. The easement for private roads that serve parcels that have no frontage on a public road shall be at least forty (40) feet in width with an adjoining ten (10) foot utility easement. For the purposes of determining compliance with setback requirements, the service road easement shall have the same status as a public street right-of-way.

### **C. Surfacing and Drainage**

Private roads shall be paved, graded and drained in compliance with City Engineering standards.

### **D. Maintenance**

Service roads located parallel to a public road shall be maintained by abutting property owners so that the road remains in good condition. A road maintenance agreement shall be prepared, executed, and recorded, to address ongoing and long-term maintenance of private roads that provide the sole means of access to parcels that have no direct public road frontage.

The maintenance agreement shall address the method of financing road maintenance and improvements. Maintenance activities covered by the agreement shall include, at minimum, snow plowing, cleaning, patching, and periodic reconstruction or resurfacing.

### **Section 21.43 -- SATELLITE DISH ANTENNAS**

In all zoning districts, satellite dish antennas may be permitted as an accessory use, subject to the following conditions:

- A. Roof mounted dish antenna up to ten (10) feet in diameter shall be permitted only in commercial and industrial districts. If located on a roof, such antenna shall be considered a roof structure and shall comply with the provisions of Section 21.06 of this ordinance.
- B. Ground mounted antenna up to ten (10) feet in diameter shall be subject to the following conditions:
  - 1. An accessory use building permit for satellite dishes shall be required.
  - 2. Maximum height permitted shall be twenty (20) feet.
  - 3. The satellite dish structure shall be securely mounted and anchored to a pole, and secured in accordance with the requirements of the manufacturer and the Building Code.
  - 4. If elevated off of the ground, all such antennas shall be located so that there is an eight (8) foot clearance between the lowest part of the dish and grade.
  - 5. Satellite dish antenna shall not be permitted in front yards.
  - 6. Such antenna shall be located a minimum of ten (10) feet from any street line and three (3) feet from any other property line.
  - 7. All electrical and antenna wiring shall be placed underground or otherwise obscured from view.
  - 8. The surface of the dish shall be painted or treated as not to reflect glare from sunlight, and shall not be used as any sign or message board. All installations shall employ (to the extent possible) materials and colors that blend with the surroundings.

### **Section 21.44 -- CURB AND GUTTER**

For all developments requiring site plan approval, curb and gutter shall be constructed along all abutting roads required in accordance with City standards.

### **Section 21.45 -- PROJECTIONS INTO REQUIRED YARDS**

Outside stairways, fire escapes, fire towers, chimneys, platforms, balconies, boiler flues, and other projections shall be considered part of the building, subject to the setback requirements for the district in which the building is located. The following projections shall be permitted to project into required yards, subject to any specified conditions:

- A. Awnings
- B. Approved freestanding signs
- C. Approved landscaping

- D. Arbors and trellises
- E. Flagpoles
- F. Window air conditioning units
- G. Fences and walls, subject to applicable restrictions set forth herein
- H. Bay windows, window sills, belt courses, cornices, eaves, overhanging eaves, and other architectural features may project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard, and may extend into any front or rear yard not more than thirty-six (36) inches.
- I. Open paved terraces, open porches, and steps below first floor level may project into required yards provided that such structural features shall not project more than twelve (12) feet into a front or rear yard and not more than eight (8) feet into a side yard, and provided further that such structural alterations shall not be closer than twenty (20) feet to a front or rear lot line or closer than six (6) feet to a side lot line.
- J. Access driveways may be placed in required front or side yards so as to provide access to the rear yard, the principal building or accessory buildings.
- K. Central air-conditioning units may encroach into a required rear yard or non-required side yard provided, however, that no unit may be placed in a location that would block emergency access or ingress/egress through any window or opening to the building.
- L. Decks that are attached to or accessory to single family residences in the R-1A and R-1B district may project up to twelve (12) feet into a required rear yard, provided that no portion of any such deck shall be closer than twenty (20) feet to the rear lot line.

## Section 21.46 -- CONDOMINIUM PROJECTS

The following regulations shall apply to all condominium projects within the City:

### A. Definitions

For purposes of this Ordinance and this Section, the following terms shall be defined as set forth herein. Condominium terms shall also have the meaning as set forth in the Condominium Act in addition to any meaning set forth herein.

1. **Condominium Act.**  
Shall mean the Public Act 59 of 1978, as amended, MCLA 559.101 et.seq.
2. **Condominium Lot.**  
Shall mean that portion of a site condominium project designed and intended to function similar to a platted subdivision lot for purposes of determining minimum yard setback requirements and other requirements set forth in Section 17.01, Schedule of Regulations.
3. **Condominium Unit.**  
Shall mean that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed for the condominium project.
4. **Detached Condominium.**  
Shall mean a condominium project designed to be similar in appearance to a conventional single family subdivision, except that limited common areas are not arranged in such a manner as to create clearly defined condominium lots.

**5. Site Condominium.**

Shall mean a condominium project designed to function in a similar manner, or as an alternative, to a platted subdivision. A site condominium shall be considered as equivalent to a platted subdivision for purposes of the regulations in this Ordinance and may be referred to as a "condominium subdivision".

**B. Regulatory Intent and Applicable Regulations.**

All condominium projects shall conform to the requirements of this Section and all other applicable regulations of this Ordinance.

**1. General Requirements for Site Condominium and Single Family Detached Condominiums.**

All site condominium projects shall be considered as equivalent to platted subdivisions for the purposes of enforcing site and building standards. It shall be the intent of this Section to regulate site condominium and single family detached condominium projects in a similar manner as a subdivision plat, except that the review procedures of this Ordinance shall apply. The substantive requirements for streets, sidewalks, utilities, storm drainage and subdivision layout and design as set forth in the Subdivision Control Act of 1967, Act 288 of the Public Acts of 1967, as amended, MCLA 560.101 et.seq., and of the City of Walled Lake Subdivision Regulations Ordinance, are intended to apply to site condominiums and also, subject to layout and design renovations permitted by this Ordinance, to single family detached condominium projects.

**2. General Requirements for Single Family Site Condominiums.**

Single family site condominiums shall be subject to all requirements applicable to R-1A or R-1B Districts, including minimum lot requirements and all other applicable requirements set forth in Section 17.01. These regulations shall be applied by requiring the site condominium unit and a surrounding limited common element to be equal in size to the minimum lot size and lot width requirements for the district in which the project is located. The site condominium unit shall be equivalent to the area of the lot where a principal building can be constructed and there shall be a limited common element associated with each site condominium unit which shall be at least equivalent to the minimum yard area requirements.

**3. Specific Requirements for Single Family Site Condominiums.**

Single family detached condominiums shall be subject to all requirements and standards of the applicable R-1A or R-1B Districts including minimum floor area requirements, regulations governing the distance between buildings and the attachment of buildings, and other requirements as set forth in this Ordinance. Proposed single family detached condominium projects shall not exceed the maximum permitted density for the district in which the project is located, as determined on the basis of minimum lot size standards set forth in Section 17.01. Appropriate information and dimensions shall be depicted on the site plan so that the Planning Commission can determine that all applicable minimum requirements are met.

**4. Requirements for Attached Condominium Units.**

Attached condominium units shall be subject to all requirements applicable to RM-1 and RM-2 Districts, including minimum floor area requirements, regulations governing the distance between buildings and attachment of buildings, and other requirements as set forth in this Ordinance.

**5. Street and Road Requirements in all Single Family Detached, Single Family Site Condominiums, and Attached Condominium Projects.**

All streets and roads in a single family detached condominium project or a single family site condominium project shall, at a minimum, conform to the standards and specifications

promulgated by the Oakland County Road Commission for a typical paved residential road in single family residential subdivisions. All streets and roads in an attached condominium project shall conform to the standards adopted by the City for a typical road in a multiple family development.

**C. Site Plan Review**

Prior to recording of the Master Deed required by Section 72 of the Michigan Public Act 59 of 1978, as amended, the condominium project shall undergo site plan review and approval pursuant to Section 21.28 of this Ordinance. Expansion of a project to include additional land in a new phase shall also require site plan review.

**D. Information Required**

In addition to the requirements in Section 21.28 of this Ordinance and the information specified on the Site Plan Review checklist, the information listed below shall be included on, or attached to, all site plans, concurrently with the notice required to be given to the City pursuant to Section 71 of Public Act 59 of 1978, as amended.

1. The name, address and telephone number of:
  - a. All persons with an ownership interest in the land on which the condominium project will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, lessee, or land contract vendee).
  - b. All engineers, attorneys, architects or registered land surveyors associated with the project.
  - c. The developer or proprietor of the condominium project.
2. The legal description of the land on which the condominium project will be developed together with appropriate tax identification numbers.
3. The acreage area of the land on which the condominium project will be developed.
4. The purpose of the project (for example, residential, commercial, industrial, etc.).
5. Approximate number of condominium units to be developed on the subject parcel.
6. A site plan, drawn to scale, which shows the following information:
  - a. A general location map.
  - b. The vehicular circulation system planned for the proposed development, including all roads, drive aisles, and paved areas, plus a designation of each street as to whether it is proposed to be private or dedicated to the public.
  - c. The location of existing private and public streets adjacent to the proposed development with an indication of how they will connect with the proposed circulation system for the new development.
  - d. The layout and boundaries of condominium units, limited common areas, and general common areas.
  - e. The proposed layout of parking, open space and recreation/park areas.

- f. Proposed landscape screening, including greenbelts and berms, and screening walls.
- g. Proposed sanitary sewer system.
- h. Proposed water supply system.
- i. Proposed storm water and drainage system, including retention and detention areas.
- j. Preliminary approval of the Oakland County Health Department.
- k. The condominium documents, including the proposed Master Deed and condominium bylaws.

All information required to be furnished under this subsection shall be kept updated until a Certificate of Occupancy has been issued pursuant to Section 2004 of this Ordinance.

**E. State and County Approval.**

1. All site condominium projects shall require the review and approval of the following agencies prior to final site plan approval:
  - a. The Oakland County Road Commission, if any part of the project includes or abuts a street or road that is under the jurisdiction of the County;
  - b. The City Engineer and City's Department of Public Works; and
  - c. The Oakland County Health Department and the Michigan Department of Natural Resources shall approve the public water system and the sanitary sewer system.
2. In addition to the specific required approvals, all site condominium project site plans shall be submitted to the Michigan Department of Natural Resources, the Oakland County Plat Board, each of the public utilities serving the site, and any other state agency designated by the Planning Commission, for informational purposes. The Planning Commission shall consider any comments made by these agencies prior to final site plan approval.

**F. Site Plan Review and Approval**

Pursuant to Section 21.28 of this Ordinance, the Planning Commission shall review the proposed condominium site plan, together with the comments and recommendations from the City Planner, City Engineer, City Staff, and County and State agencies. Based on the standards and requirements set forth in this Ordinance and this Section, the Planning Commission shall approve, approve subject to conditions, or deny the proposed condominium project and site plan.

**G. Issuance of Permits**

A building permit for a structure shall not be issued until evidence of a recorded Master Deed has been provided to the City. However, the Building Official may issue permits for site grading, erosion control, installation of public water and sewage facilities, and construction of roads prior to recording of the Master Deed. No permit issued or work undertaken prior to recording of the Master Deed pursuant to this Section shall grant any rights or any expectancy interest in the approval of the Master Deed.

**H. Master Deed, Restrictive Covenants, "As Built" Survey, and Mylar Copy**

Upon approval of the site plan, the condominium project developer or proprietor shall furnish the Building Official with the following:

- one (1) copy of the recorded Master Deed, and
- one (1) copy of all restrictive covenants.

Upon completion of the project, the condominium project developer or proprietor shall furnish the Building Official with the following

- two (2) copies of an "as built survey"; and
- one (1) copy of the site plan on a mylar sheet of at least thirteen by sixteen (13 x 16) inches with an image not to exceed ten and one-half by fourteen (10 2 x 14) inches.

The "as built survey" shall be reviewed by the City Engineer for compliance with City Ordinances. Fees for this review shall be established by resolution of the City Council.

#### **I. Monuments Required.**

All condominium projects shall be marked with monuments as follows:

1. Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium project if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.
2. All monuments used shall be made of solid iron or steel bars at least one-half (2) inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
3. Monuments shall be located in the ground at all angles in the boundaries of the condominium project; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium project; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; at all angles of an intermediate traverse line and at the intersection of all limited common elements and all common elements.
4. If the required location of a monument is an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.
5. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one-half (2) inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.
6. All required monuments shall be placed flush with the ground where practicable.
7. All unit corners shall be monumented in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one-half (2) inch in diameter, or other approved markers.
8. The Building Official may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one (1) year, on the condition that the proprietor deposits with the City cash or a certified check, or irrevocable bank letter of credit running to the City, whichever the proprietor selects, in an amount approved by the City. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of

a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

**J. Temporary Occupancy**

The Building Official may allow occupancy of the condominium project before all improvements required by this Ordinance are installed, provided that a bond is submitted sufficient in amount and type to provide for the installation of improvements without expense to the City, before the expiration of the Temporary Occupancy Permit.

**K. Performance Guarantee**

The Planning Commission may require that a performance guarantee be deposited with the City to insure faithful completion of improvements, in accordance with Section 21.30. Improvements that shall be covered by the performance guarantee include, but are not necessarily limited to: landscaping, open space improvements, streets, utilities, and sidewalks.

**L. Continued Maintenance**

The Master Deed shall contain provisions making it the responsibility of the condominium association to maintain the property in accordance with the approved site plan on a continuing basis. The Master Deed shall further establish the means of financing required maintenance and improvement activities in perpetuity. Failure to maintain an improved site plan shall be deemed in violation of the use provisions of this Ordinance and shall be subject to the same penalties appropriate for a use violation.

## **Section 21.47 -- LIGHTING**

Subject to the provisions set forth herein, all parking areas, walkways, driveways, building entryways, off-street parking and loading areas, and building complexes with common areas involving commercial, industrial, office, multiple family, or mobile home park development shall be sufficiently illuminated during typical hours of operation or uses to ensure the security of property and the safety of persons using such public or common areas.

**A. Permitted Lighting**

Only non-glare lighting shall be permitted. Lighting shall have a color rendering index of at least 50 so that objects being lit have reasonably natural color. Lighting shall be placed and shielded so as to focus the light downward onto the site and away from adjoining properties. The lighting source (i.e., the luminaire) shall not be directly visible from adjoining properties. Lighting shall be shielded so that it does not cause glare or interfere with the vision of motorists.

**B. Intensity**

In parking areas, the light intensity shall average a minimum of 1.0 footcandle, measured five (5) feet above the surface. In pedestrian areas, the light intensity shall average a minimum of 2.0 footcandles, measured five (5) feet above surface. The Planning Commission may require a photometric map with each site plan to evaluate compliance with these standards.

**C. Height**

Except as noted below, lighting fixtures shall not exceed a height of twenty (20) feet measured from the ground level to the centerline of the light source. Fixtures should provide an overlapping pattern of light at a height of approximately seven (7) feet above ground level.

The Planning Commission may modify these height standards in commercial and industrial districts, based on consideration of the following: the position and height of buildings, other structures, and trees on the site; the potential off-site impact of the lighting; the character of the proposed use; and, the character of surrounding land use. In no case shall the lighting exceed the maximum building height in the district in which it is located.

**D. Sign Lighting**

Signs shall be illuminated in accordance with the regulations set forth in Section 20.06.

**E. Site Plan Requirements**

All lighting, including lighting that is intended to be primarily decorative in nature, shall be shown on site plans in sufficient detail to allow determination of the effects of such lighting upon adjacent properties, traffic safety, and overhead sky glow. The objective of these specifications is to minimize undesirable off-site effects.

**F. Exceptions**

Because of requirements for nighttime visibility and limited hours of operation, lighting for ball diamonds, playing fields, and tennis courts may extend as high as eighty (80) feet above grade, subject to special land use approval. In reviewing the special land use, the Planning Commission shall consider the proximity of residential uses and the impact of the proposed lights on nearby residential areas.

## **Section 21.48 -- WIRELESS COMMUNICATION FACILITIES AND SERVICES**

**A. Purpose**

The purpose of this Section is to:

1. Carry out the will of the United States Congress by permitting facilities within the City that are necessary for the operation of wireless communications systems.
2. Reduce the need for additional facilities by encouraging co-location of multiple antennae on a single tower, and permitting facility heights that can maximize service while being as unobtrusive as possible.
3. Enable the highest level of wireless communication to be available to and within Walled Lake while addressing the concerns of the community regarding visual intrusion into residential areas by ensuring that wireless communication systems are situated in appropriate locations in relation to other land uses, structures and buildings.
4. Limit visual impacts by promoting the use of screening and innovative designs for such facilities, prevent potential damage to adjacent properties from tower failure, and promote the timely removal of facilities upon the discontinuance of use.
5. Provide development standards that protect the aesthetic and health, safety and general welfare interests of the City, while allowing requests for wireless communication systems to be processed efficiently.

**B. Prohibited Structures and Locations**

A lattice tower, guy-wired tower or wooden pole shall not be permitted as a wireless communication system support structure or a facility for wireless communication within the City, except as otherwise permitted in this section.

**C. Permitted Districts and Approval Process**

Wireless communication systems may be provided in the zoning districts in accordance with the following table, subject to compliance with the following approval process, development standards and building permit requirements, as set forth in this section:

Zoning District	Attached Antenna on Existing Facility	New Facility
C-2, I-1, CS	Administrative Approval	Special Use Approval
All other districts	Administrative Approval	Not Permitted

**D. Administrative Approval Application**

Applications under the administrative approval process shall be made by the property owner or his agent filing an application for an attached antenna as provided above, payment of fees and submission of all information that is needed to permit the Development Coordinator, or his designee, to determine compliance with the requirements of this Section and Ordinance. Modifications, expansions, or removal of a wireless communication system, in whole or in part, shall require administrative approval unless, due to the nature or extent of the proposed change(s), approval by another approving body of the City is required in which case such approval shall be obtained.

**E. Special Land Use Application**

1. Applications for approval under the special land use process shall be made by the property owner or agent by filing the appropriate application for Planning Commission approval, and the following:
  - a. Payment of fees as indicated in the Schedule of Fees.
  - b. Submission of a site plan which meets the requirements of Section 21.28, Site Plan Review and the additional requirements of this ordinance.
  - c. Submission of all other necessary information, including information required by Section 21.29, Special Land Uses, to allow the Planning Commission to hold a public hearing on the request and determine compliance with the requirements of the Ordinance.
2. After receiving approval of the special land use and site plan from the Planning Commission, the property owner or his agent must file a building permit application for review and approval consistent with the requirements of this Section, the State Construction Code enforced by the City and any other requirement of the Building Official.

**F. General Provisions**

A new wireless telecommunication facility shall meet all of the following provisions:

1. The nature and extent of the applicant’s ownership or lease interest in the property or structure shall be submitted.
2. Facilities shall be self-collapsing, where any collapse will be completely contained within the subject property, and shall comply with all State Construction Code and Electrical Code

regulations. The applicant shall provide all necessary engineering information, site plans, and drawings to make these determinations with the application. No structure, (other than the associated support building) sidewalk, parking lot or other pedestrian or vehicular traffic area shall be permitted within the self-collapsing or "safe fall" area.

3. No part of any antenna or facility shall project over, or be constructed, located or maintained at any time, permanently or temporarily within any setback area required in the zoning district.
4. Antennas and metal towers shall be grounded for protection against lightning strikes, and shall comply with all State Electrical Code requirements, and with all applicable local statutes, regulations, and standards.
5. Facilities with antennas shall be designed to withstand a uniform wind loading as prescribed in the State Construction Code or other applicable engineering standard.
6. The facility construction plans shall be certified by a registered structural engineer, who shall verify that the antenna mount and structure have been reviewed, and that the structure and installation are in compliance with all applicable engineering standards.
7. All antennas and facilities must meet the standards of the Federal Aviation Administration (FAA) and Federal Communications Commission (FCC).
8. All signal and remote control conductors of low energy extending substantially horizontally above the ground between towers, or between a tower or antenna and a structure, shall be at least eight (8) feet above the ground at all points, unless buried underground.
9. Structures shall be subject to current State and Federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive State or Federal standards are adopted in the future, the system shall be upgraded to conform within one hundred eighty (180) days of their effective date. Failure to make such required upgrades shall constitute grounds for the City Council to revoke any special use permit. Costs for testing and verification of compliance shall be borne by the operator of the antenna.
10. All new wireless communication systems shall be designed within the applicable ANSI standards and N.E.C. standards.
11. Metal facilities shall be constructed of (or treated with) corrosion resistant materials.
12. Any proposed facility shall be designed, constructed and maintained in a manner that accommodates co-location of multiple antenna arrays on a single tower mounted at varying heights.
13. The issuance of a Building Permit by the Building Department and compliance with any other requirements of the City and or any other required body shall be required.
14. Financial guarantees (in the form of a cash bond or irrevocable letter of credit) shall be provided in an amount sufficient to guarantee removal of a vacant or abandoned system, and to ensure that the site is restored to its original condition.
15. The wireless communication provider shall provide proof of insurance for liability and property damage of not less than \$1,000,000, or as otherwise required by the City.

#### **G. Development Requirements**

1. An attached wireless communication antenna (as defined in Section 2.02) shall be approved administratively by the Development Coordinator, or their designee, subject to compliance with this Section and the following:
  - a. The proposal will not materially alter the appearance of the existing structure.
  - b. An agreement between the titleholder of the property and the antenna provider shall be submitted to show that it would require co-location.
  - c. A coverage area map shall be submitted of the area served by the provider's existing wireless communications facilities, along with a map of the same area showing the coverage provided by the addition of any proposed facilities and sufficient documentation to demonstrate the need for the antenna.
  - d. The wireless communication provider's master plan (as defined in Section 2.02) shall be submitted.
  - e. Any accessory equipment for the antenna shall be placed inside the structure to which the antenna is attached, or in the rear yard with screening provided so that the equipment is not visible from adjacent properties and public rights-of-way.
  - f. The issuance of a Building Permit and compliance with any other requirements of the City and or any other required body shall be required.
2. A wireless communication facility (as defined in Section 2.02) shall be approved subject to compliance with this Section and the following:
  - a. Coverage Area Maps and Master Plan: The coverage area map and wireless communication master plan (as defined in Section 2.02) shall be submitted for review. The coverage area map for the proposed site shall include documentation for a minimum of three (3) antenna heights; one (1) at the proposed height, the second at a height that is no less than twenty-five (25) feet lower and the third at no less than twenty-five (25) feet higher than the proposed height. The applicant shall demonstrate a justification for the proposed structure height and provide an evaluation of the impacts of such alternative designs on coverage and co-location options, which might result in a different height from the proposed height being approved.
  - b. Existing Locations and Co-Location: Wherever possible, systems shall locate on existing buildings, structures and existing wireless communication facilities. Further, no new pole or tower shall be permitted unless the applicant demonstrates to the satisfaction of the Planning Commission that no existing building, structure, facility or alternative technology that does not require the use of towers can accommodate the proposed antenna. The agreement between the property titleholder and the wireless communication facility provider shall be submitted to show that co-location shall be required and that a total of three antenna arrays shall be allowed to co-locate, and shall limit accessory utility buildings on the site to one (1) that shall be designed to accommodate all current, proposed and future providers. If a provider fails to or refuses to permit co-location, said structure and its' existing wireless communication systems shall become a nonconforming structure and shall not be altered or expanded in any way. No lattice towers, guy-wired poles or wooden poles shall be permitted.
  - c. Site Plan: The site plan must address the wireless communication facility plus the existing site development. A condition of any site plan approval shall be that the entire site, and not just the area proposed for the wireless communication facility shall be reviewed so that any necessary improvements to existing nonconforming aspects are modified to bring

the site into compliance with the Ordinance to the fullest that is practical extent. Also, any delayed maintenance shall be completed to the satisfaction of the Development Coordinator. The site plan shall also be accompanied by an elevation perspective of the tower, including adjacent buildings within 100 feet of the site shown at the same horizontal and vertical scale.

- d. Height: Maximum height of a wireless communication facility shall be one hundred twenty (120) feet. A height no greater than one hundred fifty (150) feet may be considered by the Planning Commission where the applicant has sufficiently demonstrated that the additional height will reduce the total number of potential communication facilities in the City. Further, the maximum height shall be the minimum demonstrated to be necessary for reasonable communication by the applicant, including co-location. The accessory utility building shall be limited to the maximum height permitted for an accessory structure in the zoning district.
- e. Setbacks: Minimum yard setbacks shall be equal to no less than one and one-half (1½) times the height of the facility, unless documentation is submitted that confirms the facility has been designed to eliminate all safety concerns from falling or collapse of a structure. However, in no case shall any setback be less than the setback that would be required for a primary structure in the zoning district. A wireless communication facility must be located a minimum of five hundred (500) feet from any property that is zoned or used for residential purposes.
- f. The facility and all equipment shall be located in the rear yard, in an area of the site where the visual impact to the public is minimized. Alternate locations may be approved by the Planning Commission upon determining that an alternate location provides better screening of the facility and equipment from public view.
- g. Commercial signs, advertising, and logos, and artificial lighting such as strobe lights (other than lighting or other identification required by the FAA or FCC) shall be prohibited on the facility.
- h. Proposed access to the facility and overall circulation shall be reviewed and approved. An access road that serves only the facility may be constructed of gravel and/or aggregate sufficient to maintain adequate access to the site. The Planning Commission may require the access to be paved if it determines that paving is needed to satisfy overall circulation needs.
- i. The need for anti-climbing devices and/or other security measures must be addressed and shall be provided if required.
- j. The issuance of a Building Permit and compliance with any other requirements of the City and or any other required body shall be required. Facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare, and shall be located and designed to be harmonious with the surrounding areas.

#### **H. Co-Location Required**

1. Feasibility. It is the policy of the City to minimize the overall number of newly established locations for wireless communication facilities within the community, by requiring co-location and the use of existing structures for attached wireless communication antennas. The provisions of this subsection are designed to carry out and encourage conformity with this policy. Co-location shall be deemed to be feasible for purposes of this Section where all of the following are met:

- a. The provider under consideration for co-location will undertake to pay market rent or other market compensation for co-location.
  - b. The site on which co-location is being considered is able to provide structural support, taking into consideration reasonable modification or replacement of a facility.
  - c. The co-location being considered is technologically reasonable, and will not result in unreasonable interference, in relation to the structure and existing antennas.
  - d. Any proposed increase in structure height necessary for co-location will not exceed that deemed permissible by the City.
2. Process and Conditions.
- a. A special land use permit for a new wireless communication facility shall not be granted unless the applicant demonstrates that a feasible co-location is not available for the coverage area and capacity needs.
  - b. All new and modified wireless communication facilities shall accommodate co-location. If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible co-location, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.
  - c. Co-location of a wireless communication antenna upon an existing monopole shall be approved administratively by the Building Official, subject to compliance with the above items and the requirements for a wireless communication antenna.

#### **I. Maintenance**

1. Routine maintenance shall be provided to ensure the continued soundness of the wireless communication system, and to ensure that the site will be kept in a safe condition. Any system that is determined to be unsafe, unlawfully erected or not maintained shall be in violation of this Section and Ordinance. The use of said system shall be discontinued until all violations are corrected, or it shall be immediately removed.
2. All facilities shall be inspected by the provider at least once per year, and serviced as necessary to maintain the facilities in a safe condition. Reports regarding inspections and servicing shall be made available to the Development Coordinator upon written request.
3. Wireless communication systems shall not interfere with reception in nearby residential areas. In the event such interference occurs, the provider shall take all steps necessary to eliminate such interference.

#### **J. Removal**

1. All abandoned or unused (as defined in Section 2.02) wireless communication antennas, equipment, facilities or systems shall be removed within one hundred eighty (180) days of the cessation of operations on the site, unless a time extension is approved by the Development Coordinator. In the event that a tower is not removed within one hundred eighty (180) days of the cessation of operations, the tower and associated facilities may be removed by the City and the costs of removal assessed against the property. Removal of a wireless communication system, in whole or in part, shall require administrative approval from the City, and issuance of any applicable permits.

2. It shall be the obligation of the wireless communications provider to inform the Building Department of any wireless communication system termination or upgrade.
3. The City shall require a bond to secure the future removal of any abandoned or unsafe wireless communication system or structure.
4. The City may secure the removal of the structure if it is still standing thirty days after the City has sent a notice to the operator stating the need to remove the structure.
5. Unused portions of towers located above a manufactured connection shall be removed within one hundred eighty (180) days of the time of antenna relocation. The replacement of portions of a tower previously removed shall be subject to a new special land use approval.
6. The base of any tower and/or support anchors shall be removed to a point no less than twelve (12) feet below grade. The excavation shall be filled with suitable soil, than covered with topsoil and hydroseeded.

**K. Enforcement**

A violation of any provision or requirement of this section shall be deemed a Municipal Civil Infraction. Additionally, the City may pursue any other legal or equitable remedy in any court of competent jurisdiction to abate or enforce any violation of this section.