

# ZONING ORDINANCE OF THE CITY OF HAMTRAMCK

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**CITY OF HAMTRAMCK  
ORDINANCE 497**

**An ordinance to provide for the manner in which regulations and boundaries of zones or districts shall be determined and enforced and amended, supplemented, or changed.**

The City of Hamtramck ordains that:

**ARTICLE I. TITLE, PURPOSE, AND SCOPE.**

Section 1. Short Title.

These regulations shall be known as the “Zoning Ordinance of the City of Hamtramck”, hereinafter referred to as “this Ordinance.”

Section 2. Purpose.

The purpose of this Ordinance is to safeguard the public health, safety, and welfare by controlling the design, location, use, or occupancy of all buildings and structures within the City of Hamtramck through the regulated and orderly development of land and land uses and to promote economic stability and aesthetic design in as much as it safeguards the public health, safety, and welfare.

Section 3. Scope.

The provisions of this Ordinance shall apply to the construction, addition, alteration, moving, repair, and use of any building, structure, parcel of land, sign, or fence within the City of Hamtramck, except work located primarily in a public way, on public utility towers and poles, and public utilities unless specifically mentioned in this Ordinance.

Section 4. Conflicting Sections.

If, in any specific case, different sections of this Ordinance specify different requirements, the more restrictive shall govern. If there is conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

Section 5. Conflicting Ordinances.

If the provisions of this Ordinance impose regulations for lower heights of buildings, or a less percentage of lot that may be occupied, or require wider or larger courts or deeper yards than are imposed or required by existing provisions of law or ordinance, the provisions of this Ordinance shall govern. If, however, the provisions of the state housing code or other ordinances or regulations of this City impose requirements for lower heights of buildings or less percentage of lot that may be occupied, or require wider or larger courts or deeper yards than are required by this Ordinance, the provisions of the state housing code or other ordinance shall govern.

Section 6. Public Benefit.

In fulfilling these purposes, this Ordinance is intended to benefit the public as a whole and not any specific person or class of persons. Although, through implementation, administration, and enforcement of this Ordinance, benefits and detriments shall be enjoyed or suffered by specific individuals, such is merely a byproduct of the overall benefit to the whole community.

Therefore, unintentional breaches of the obligations of administration and enforcement imposed by the City of Hamtramck shall not be enforceable in tort.



## ARTICLE II. DEFINITIONS.

### Section 1. Scope.

Unless otherwise expressly stated, the following words and terms shall, for the purposes of this Ordinance, have the meanings as shown in this article. The particular shall control the general. The text shall control if any difference of meaning or implication between the text of this Ordinance and any caption or illustration occurs. The word “shall” is always mandatory and the word “may” is permissive.

### Section 2. Interchangeability.

Words stated in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural, the singular, unless the context clearly indicates the contrary.

### Section 3. Terms Defined in other Codes.

If terms are not defined in this Ordinance and are defined in other legally adopted codes, such terms shall have the meanings ascribed to them as in those codes.

### Section 4. Terms not Defined.

If terms are not defined through the methods authorized by this article, such terms shall have ordinarily accepted meanings such as the context implies.

### Section 5. Terms Defined.

Unless otherwise expressly stated, the following words and terms shall, for the purposes of this Ordinance, have the meanings as shown in this section.

ABANDONED SIGN. See Article XI, Section 2.

ACCESSORY BUILDING. A subordinate building customarily incidental to and located on the same lot occupied by the principal use or main building, such as a detached garage.

ACCESSORY LIVING QUARTERS. An accessory building used by a single-family to be located above a garage.

ACCESSORY USE. A use conducted on the same lot as the primary use of the structure to which it is related; a use that is clearly incidental to and customarily found in connection with, such primary use.

AGRICULTURE. The tilling of soil, raising of crops, farm animals, livestock, horticulture, gardening, beekeeping, and aquaculture.

ALLEY. Any public way or thoroughfare greater than 10 feet but less than 16 feet in width, which has been dedicated to the public for public use.

ALTERATION. Any change, addition, or modification in construction, occupancy, or use.

AMUSEMENT CENTER. An establishment within an enclosed building offering five or more amusement devices, including, but not limited to, coin-operated electronic games, electronic dart boards, juke boxes, shooting galleries, table games, and similar recreational diversions. Vending machines shall not be included in the count of coin-operated machines for purposes of this definition.

ANIMATED SIGN. See Article XI, Section 2.

**Electrically activated.** See Article XI, Section 2.

**Environmentally activated.** See Article XI, Section 2.

**Mechanically activated.** See Article XI, Section 2.

APARTMENT HOUSE. A residential building designed or used for three or more dwelling units. All apartment houses are subject to any general business license and rental inspection ordinances of the City.

AUTOMOBILE REPAIR, MAJOR. An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers, and similar large mechanical equipment, including paint, body, fender, and major engine and engine part overhaul, which is conducted in a completely enclosed building.

AUTOMOBILE REPAIR, MINOR. An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers, and similar large mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups, and transmission work, which is conducted in a completely enclosed building.

AUTOMOTIVE SELF-SERVICE STATION. That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles by persons other than a service station attendant. Such an establishment shall be permitted to offer for sale at retail other convenience items as a clearly secondary activity and shall be permitted to also include a freestanding automatic car wash.

AUTOMOBILE SERVICE STATION. That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles. Accessory activities shall be permitted to include minor automotive repair and maintenance, car wash service, and food sales.

BAR. Any business establishment that is licensed by the Michigan Liquor Control Commission to serve alcohol and does not provide a full-service dining menu.

BASEMENT. Any floor level below the first story in a building, except that a floor level in a building having only one floor level, shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

BIOSWALE. A long, channeled depression or trench that receives rainwater runoff (such as from a parking lot) and has vegetation (such as grasses, flowering herbs, and shrubs) and organic matter (such as mulch) to slow water infiltration and filter out pollutants.

BOARD. The Zoning Board of Appeals of the City as created in this Ordinance.

**BOARDING HOUSE.** A dwelling containing a single dwelling unit and not more than 10 guest rooms or suites of rooms, where lodging is provided with or without meals, for compensation for more than 1 week and less than 12 weeks. All boarding houses are subject to any general business license and rental inspection ordinances of the City.

**BREWERY.** An establishment that produces barrels of ale or beer for on-site consumption and wholesale distribution, as allowed by the Michigan Liquor Control Commission.

**BREW PUB.** an establishment that not less than 25 percent of the gross sales of the restaurant during the one-year licensure period are derived from the sale of food and nonalcoholic beverages prepared for consumption on the premises and the brewpub license is issued in conjunction with a class C, tavern, B-Hotel, or A-Hotel license that authorizes the licensee to brew up to 18,000 barrels of beer per calendar year for sale on the premises.

**BUILDING.** Any structure used or intended for supporting or sheltering any use or occupancy.

**BUILDING CODE.** The Michigan Building Code promulgated by the State of Michigan, as adopted by the City.

**BUILDING CODE OFFICIAL.** A person registered with the State of Michigan under the Building Officials and Inspectors Registration Act, Act No. 54 of the Public Acts of 1986, being sections 338.2301 through 338.2313 of the Michigan Compiled Laws, and duly authorized by the City to perform inspections within the City.

**BUILDING HEIGHT.** The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the highest midpoint between eaves and ridge for gable, hip, and gambrel roofs.

**BUILDING INSPECTOR.** A person registered with the State of Michigan under Building Officials and Inspectors Registration Act, Act No. 54 of the Public Acts of 1986, being sections 338.2301 through 338.2313 of the Michigan Compiled Laws, and duly authorized by the City to perform inspections within the City.

**BUILDING LINE.** The perimeter of that portion of a building or structure nearest a property line, but excluding open steps, terraces, cornices, and other ornamental features projecting from the walls of the building or structure. Roof eaves and overhangs exceeding one (1) foot shall be counted as part of the building line.

**BUILDING, MAIN.** A building in which the principle use of the site is conducted.

**BUILDING, TEMPORARY.** A building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction of utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a subdivision under construction. This definition shall include, but not be limited to, tents, booths, and other canvass-like structures.

**BUSINESS OR FINANCIAL SERVICES.** An establishment intended for the conduct, service, or administration by a commercial enterprise, or offices for the conduct of professional or business service.

**CANOPY.** A roofed structure constructed of fabric or other material supported by the building or by support extending to the ground directly under the canopy placed so as to extend outward from the building providing a protective shield for doors, windows, and other openings.

**CITY.** The City of Hamtramck, Wayne County, Michigan.

**CODE OFFICIAL.** The person appointed by the chief executive officer of the City who is charged with the enforcement of this Ordinance.

**COMMERCIAL CENTER, COMMUNITY.** A completely planned and designed commercial development of 100,000 to 300,000 square feet that usually contains one junior department store, a variety store or discount department store, a supermarket, and specialty stores. A community commercial center generally has between twenty and seventy retail tenants and the market support of more than 5,000 households.

**COMMERCIAL CENTER, CONVENIENCE.** A completely planned and designed commercial development providing for the sale of general merchandise and daily necessities. A convenience store located in a convenience commercial center shall not exceed 5,000 square feet.

**COMMERCIAL CENTER, NEIGHBORHOOD.** A completely planned and designed commercial development with a gross leasable area of less than 100,000 square feet. Typical anchors include supermarkets and pharmacies. Neighborhood commercial centers offer convenience goods and personal services, and usually depend on the market support of more than 1,000 households.

**COMMERCIAL CENTER, REGIONAL.** A completely planned and designed commercial development having between 400,000 and 750,000 square feet of gross leasable area. A regional commercial center offers a variety of general merchandise, apparel, furniture, home furnishings, services, and recreational facilities and is built around one or more full department stores of not less than 100,000 square feet each.

**COMMERCIAL, HEAVY.** An establishment or business that generally uses open sales yards, outside equipment storage or outside activities that generate noise or other impacts considered incompatible with less-intense uses. Typical businesses in this definition are lumberyards, construction specialty services, heavy equipment suppliers, or building contractors.

**COMMERCIAL, LIGHT.** An establishment or business that generally has retail or wholesale sales, office uses, or services, which do not generate noise or other impacts considered incompatible with less-intense uses. Typical businesses in this definition are retail stores, offices, catering services, or restaurants.

**COMMERCIAL RETAIL SALES AND SERVICE.** Establishments that engage in the sale of general retail goods and accessory services. Businesses within this definition include those that conduct sales and storage entirely within an enclosed structure (with the exception of occasional outdoor "sidewalk" promotions); businesses specializing in the sale of either general merchandise or convenience goods.

**COMMISSION.** The City Plan Commission as created by this Ordinance.

**COMMON COUNCIL.** The legislative body of the City of Hamtramck as created by the City Charter.

**COMPREHENSIVE PLAN.** The declaration of purposes, policies, and programs for the development of the City; also known as the Master Plan.

**CONDOMINIUM.** A single-dwelling unit in a multiunit dwelling or structure that is separately owned and may be combined with an undivided interest in the common areas and facilities of the property.

**CONFLICT OF INTEREST.** When a member of the Plan Commission or Zoning Board of Appeals, who is asked to make a decision as part of the appropriate Board or Commission, has a financial interest in the person or corporation making the request, owns property or resides within 300 feet of the area in question, or is related to the person making the request within the second-degree of blood or marriage.

**CONSTRUCTION.** The erection, reconstruction, alteration, conversion, repairing, moving, or equipping of any building.

**CONGREGATE RESIDENCE.** Any building or portion thereof that contains facilities for living, sleeping, and sanitation as required by this Ordinance, and may include facilities for eating and cooking for occupancy by other than a family. A congregate residence shall be permitted to be a shelter, convent, monastery, dormitory, fraternity, or sorority house, but does not include jails, hospitals, nursing homes, hotels, or lodging houses.

**COURT.** A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of the same building.

**DAY CARE, FAMILY.** The keeping for part-time care or instruction or both, whether or not for compensation, of six or fewer children at any one time within a dwelling, not including members of the family residing on the premises. All family day care facilities are subject to any general business license and rental inspection ordinances of the City.

**DAY CARE, GROUP.** An establishment for the care or instruction or both, whether or not for compensation, of seven or more persons at any one time. Child nurseries, preschools, and adult care facilities are included in this definition. Such establishment shall be licensed by the State. All group day care facilities are subject to any general business license and rental inspection ordinances of the City.

**DENSITY.** The number of dwelling units that are allowed on an area of land, which area of land shall be permitted to include dedicated streets contained within the development.

**DISTILLERY.** An establishment that manufactures spirits, not to exceed 60,000 gallons annually of all brands combined for on-site consumption, for off-premises consumption, and may sell spirits to the Michigan Liquor Control Commission who resells spirit products through the spirit distribution system.

**DRIVEWAY.** A private access road, the use of that is limited to persons residing, employed, or

otherwise using or visiting the parcel in which it is located.

**DWELLING, MULTIPLE UNIT.** A building or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances or other spaces or both. Individual dwelling units may be owned as condominiums, or offered for rent.

**DWELLING, SINGLE FAMILY ATTACHED.** A group of three (3) or more single family dwelling units which are joined consecutively by a common party wall, but not a common floor-ceiling. Each unit shall have its own outside entrance. For the purposes of this Ordinance, dwellings such as semi-detached and rowhouses, shall be deemed a single family attached dwelling.

**DWELLING, SINGLE FAMILY.** A detached dwelling unit with kitchen and sleeping facilities designed for occupancy by one family.

**DWELLING, TWO FAMILY.** A detached dwelling unit with kitchen and sleeping facilities designed for occupancy by two families.

**DWELLING.** A building that contains one or two dwelling units that is used, intended, or designed to be used, rented, leased, sublet, or hired out to be occupied for living purposes.

**DWELLING UNIT.** A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**EASEMENT.** That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on, or above the lot or lots.

**FACE OF BUILDING, PRIMARY.** The wall of a building fronting on a street or right-of-way, excluding any appurtenances such as projecting fins, columns, pilasters, canopies, marquees, showcases, or decorations.

**FARM ANIMALS.** Animals other than household pets that shall be permitted to, if permitted, be kept and maintained for commercial production and sale or family food production, education, or recreation, or all of the above. Farm animals are identified by these categories: large animals, e.g. horse and cattle; medium animals, e.g. sheep and goats; or small animals, e.g. rabbits, chinchillas, chickens, turkeys, pheasants, geese, ducks, and pigeons.

**FLOOR AREA, GROSS.** The sum of the horizontal areas of the floors of a building measured from the exterior face of exterior walls or, if appropriate, from the centerline of dividing walls; this includes courts and decks and porches when covered by a roof.

**FLOOR AREA, NET.** The gross floor area exclusive of vents, shafts, courts, elevators, stairways, exterior walls, and similar facilities.

**FRONTAGE.** The width of a lot or parcel abutting a public right-of-way measured at the front property line.

**GARAGE.** A building or portion of a building not more than 576 square feet in area and not exceeding 15 feet in height at the midway point between the eaves and the ridge, in which only private or pleasure-type motor vehicles used by the tenants of the building or buildings on the premises are primarily stored or kept.

**GRADE (Adjacent Ground Elevation).** The lowest point of elevation of the existing surface of the ground, within the area between the building and a line five (5) feet from the building.

**GROUP CARE FACILITY.** A facility, required to be licensed by the State, which provides training, care, supervision, treatment, or rehabilitation to the aged, disabled, those convicted of crimes, or those suffering the effects of drugs or alcohol; this does not include day care centers, family day care homes, foster homes, school, hospitals, jails, or prisons.

**HABITABLE SPACE (Room).** Space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility spaces, and similar areas are not considered habitable space.

**HAZARDOUS MATERIALS.** Any material that constitutes a physical or health hazard.

**HOME OCCUPATION.** The partial use of a dwelling unit for commercial or nonresidential uses by a resident thereof, which is subordinate and incidental to the use of the dwelling for residential purposes.

**HOSPITAL.** An institution designed for the diagnosis, treatment, and care of human illness or infirmity and providing health services, primarily for inpatients, and including related facilities, laboratories, outpatient departments, training facilities, and staff offices.

**HOUSEHOLD PETS.** Dogs, cats, rabbits, birds, etc. for family use only (noncommercial) with cages, pens, etc.

**INDUSTRIAL OR RESEARCH PARK.** A tract of land developed according to a site plan for the use of a family of industries and their related commercial uses, and that is of sufficient size and physical improvement to protect surrounding areas and the general community and to ensure a harmonious integration into the neighborhood.

**IMPROVEMENTS.** Those features and actions associated with a project which are considered necessary by the body or official granting zoning approval 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 roadways, lighting, utilities, sidewalks, screening, and drainage. "Improvements" do not include the entire project that is the subject of zoning approval.

**JUNK YARD.** Any land area including buildings thereon used primarily for the outdoor abandonment, collection, dismantling, salvaging, and storage of inoperable vehicles or machinery, waste paper, rags, scrap metal, or other discarded materials which may or may not be offered for sale in whole or in part.

**KITCHEN.** Any room or portion of a room within a building designed and intended to be used

for the cooking or preparation of food.

**LABORATORY.** A place devoted to experimental, routine, or basic study such as testing and analytical operations, and in which manufacturing of products, except prototypes for test marketing, is not performed.

**LABORATORY.** A place devoted to experimental study, such as testing and analyzing. Manufacturing of products is not permitted within this definition.

**LANDSCAPING.** The finishing and adornment of unpaved yard areas, materials, and treatment that generally includes naturally growing elements such as grass, trees, shrubs, and flowers. These treatments shall be permitted also to include the use of logs, rocks, fountains, water features, and contouring of the earth.

**LIVESTOCK.** Includes, but is not limited to, horses, bovine animals, sheep, goats, swine, reindeer, donkeys, mules, and any other hoofed animals.

**LOADING BERTH.** An off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking. A loading space is five hundred twenty-eight (528) square feet in area.

**LOT.** A single parcel of land. (N.B. this definition shall require lot combinations for large projects occurring on contiguous lots owned by the same person.)

**LOT, CORNER:** A lot whose lot lines form an interior angle of less than one hundred thirty-five (135) degrees at the intersection of two (2) street lines. A lot abutting on a curved street or streets shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than one hundred thirty five (135) degrees.

**LOT COVERAGE:** The amount of a lot, stated in terms of percentage, that is covered by all structures located thereon. This shall be deemed to include all buildings or structures covered by a permanent roof, including porches, breezeways, patio roofs, and the like, whether open box-type or lathe roofs or both, or fully roofed, but shall not be deemed to include fences, walls, or hedges used as fences.

**LOT LINE:** A boundary line of a lot.

**LOT LINE, FRONT:** The exterior line along the right-of-way of a road on which a lot fronts or abuts.

**LOT LINE, REAR:** The lot line that is parallel or nearly parallel to the front lot line.

**LOT LINE, SIDE:** Any lot line not a front lot line or rear lot line, that generally crosses a front lot line or rear lot line.



**LOT OF RECORD:** A lot which actually exists in a subdivision plat as shown on the records of the County Registrar of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**LOT DEPTH:** The average distance between the front lot line and rear lot line.

**LOT WIDTH:** The average distance between side lot lines.

**MANUFACTURING, HEAVY.** All other types of manufacturing not included in the definitions of light manufacturing and medium manufacturing.

**MANUFACTURING, LIGHT.** The manufacturing, compounding, processing, assembling, packaging, or testing of goods or equipment, including research activities, conducted entirely within an enclosed structure, with no outside storage, serviced by a modest volume of trucks or vans and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust, or pollutants.

**MANUFACTURING, MEDIUM.** The manufacturing, compounding, processing, assembling, packaging, or testing of goods or equipment, including research activities, conducted entirely within an enclosed structure or an open yard that is capable of being screened from neighboring properties, serviced by a modest volume of trucks or other vehicles.

**MAYOR.** The chief executive officer of the City, whether the official designation of his office is mayor, city manager, or otherwise.

**MODULAR HOME.** A structure transportable in one or more sections, not built on a chassis, constructed according to the Building Code, and designed to be used as a dwelling unit with a permanent foundation when connected to the required facilities.

**MINING.** The physical excavation, filling, and grading of any lot other than normal maintenance.

**MORTUARY, FUNERAL HOME.** An establishment in which the dead are prepared for burial or cremation. The facility shall be permitted to include a chapel for the conduct of funeral services, spaces for funeral services and informal gatherings, or display of funeral equipment, or all of the above.

**MOTEL, HOTEL.** Any building containing six or more guestrooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which guests occupy for sleeping purposes.

**NONCONFORMING LOT.** A lot which width, area, or other dimension did not conform to the regulations when this Ordinance or subsequent amendment became effective.

**NONCONFORMING SIGN.** A sign or sign structure or portion thereof lawfully existing when this Ordinance or subsequent amendment became effective, which does not now conform.

**NONCONFORMING STRUCTURE:** A building or structure or portion thereof lawfully existing at the effective date of this Ordinance, or affecting amendment, which was designed, erected, or

structurally altered for a use that does not conform to the zoning regulations of the zone in which it is located.

NONCONFORMING USE. See “Use, nonconforming.”

OPEN AIR BUSINESS USES: Uses not conducted from a wholly enclosed building and operated for profit, including the following uses:

- (a) Bicycle, trailer, motor vehicle, mobile home, boat or home equipment sale or rental service, including used automobile sales.
- (b) Outdoor display and sale of garages, swimming pools, and similar structures.
- (c) Retail sales of fresh fruit, vegetables, and other perishable foods. Permitted Agricultural Retail Sales and Temporary Produce Sales uses are not classified as Open Air Business Uses.
- (d) Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment.
- (e) Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, children’s amusement park, outdoor swimming pools and skating rinks or similar recreational use.

OPEN SPACE. Land areas that are not occupied by building, structure, parking areas, streets, alleys, or required yards. Open space shall be permitted to be devoted to landscaping, preservation of natural features, patios, and recreational areas and facilities.

PARK. A public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

PARKING LOT. An open area, other than a street, used for the parking of automobiles.

PARKING SPACE, AUTOMOBILE. A space within a building or private or public parking lot, exclusive of driveways, ramps, columns, office, and work areas, for the parking of an automobile.

PERSON. Individual natural persons, partnerships, joint adventures, societies, associations, clubs, trustees, trusts, or corporations; or any officers, agents, employees, factors, or any kind of personal representatives of any thereof, in any capacity, acting either for himself, or for any other person, under either personal appointment or pursuant to law.

PLANNED UNIT DEVELOPMENT (PUD). A residential or commercial development guided by a total design plan in which one or more of the zoning or subdivision regulations, other than use regulations, shall be permitted to be waived or varied to allow flexibility and creativity in site and building design and location, under general guidelines. A PUD includes cluster zoning, planned development, community unit plan, planned residential development, and other terminology denoting zoning requirements designed to accomplish the objectives of this Ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. This Ordinance does not allow for Planned Unit

Developments.

**PLOT PLAN.** A plot of a lot, drawn to scale, showing the actual measurements, the size and location of any existing buildings or building to be erected, the location of the lot in relation to abutting streets, and other such information.

**POOLS (SWIMMING), HOT TUBS, AND SPAS.**

**Above-ground/on ground pool.** See “Private swimming pool.”

**Barrier.** A fence, a wall, a building wall, the wall of an above-ground swimming pool or a combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.

**Hot tub.** See “Private swimming pool.”

**In-ground pool.** See “Private swimming pool.”

**Power safety cover.** A pool cover that is placed over the water area, and is opened and closed with a motorized mechanism activated by a control switch.

**Private swimming pool.** Any structure that contains water over 24 inches in depth and which is used, or intended to be used, for swimming or recreational bathing in connection with an occupancy in Residential Zones and which is available only to the family and guests of the householder. This includes in-ground, aboveground, and on-ground swimming pools, hot tubs, and spas.

**Private swimming pool, indoor.** Any private swimming pool that is totally contained within a private structure and surrounded on all four sides by walls of the structure.

**Private swimming pool, outdoor.** Any private swimming pool that is not an indoor pool.

**Public swimming pool.** Any swimming pool other than a private swimming pool.

**Spa.** See “Private swimming pool.”

**PREMANUFACTURED UNIT.** A structure, transportable of a minimum of two sections that has a Certificate of Acceptability issued under the rules set forth in the Stille-Derossett-Hale Single State Construction Code Act, Act No. 230 of the Public Acts of 1972, being sections 125.1501 through 125.1531 of the Michigan Compiled Laws.

**PRODUCTION FILMING.** All activity attendant to staging or shooting (videotaping or filming or digital recording) commercial motion pictures, television shows, programs or commercials, and to the taking of single or multiple photographs for sale or use for a commercial purpose where the photographer sets up stationary equipment on private property.

**PUBLIC IMPROVEMENT.** Any drainage ditch, storm sewer, or drainage facility, sanitary sewer, water main, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or for which the local government responsibility is established.

**PUBLIC SERVICES.** Uses operated by a unit of government to serve public needs, such as police (with or without jail), fire service, ambulance, judicial court, or government offices, but not including public utility stations or maintenance facilities.

**PUBLIC UTILITY STATION.** A structure or facility used by a public or quasi-public utility agency to store, distribute, generate electricity, gas, telecommunications, and related equipment, or to pump or chemically treat water. This does not include storage or treatment of sewage, solid waste, or hazardous waste.

**PUBLIC WAY.** Any street, alley, or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated, or otherwise permanently appropriated to the public for public use.

**QUASI-PUBLIC.** Essentially a public use, although under private ownership or control.

**QUORUM.** A majority of the authorized members of a Board or Commission.

**RECREATION, INDOOR.** An establishment providing completely enclosed recreation activities. Accessory uses shall be permitted to include the preparation and serving of food, or the sale of equipment related to the enclosed uses, or both. Included in this definition shall be bowling, roller skating or ice skating, billiards, pool, motion picture theaters, laser tag, video arcades, dance halls, gymnasiums, indoor sporting centers, and related amusements.

**RECREATION, OUTDOOR.** An area free of buildings, except for restrooms, dressing rooms, equipment storage, maintenance buildings, open-air pavilions, and similar structures used primarily for recreational activities.

**RECREATIONAL VEHICLES.** A vehicle used for recreational activities, including, but not limited to, boats, wave runners, travel trailers, all-terrain vehicles, motorcycles, snowmobiles, racecars, dune buggies, campers, motor homes, and travel trailers.

**RECYCLING FACILITY.** Any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled, or handled, including, but not limited to, scrap metals, paper, rags, tires, and bottles, and other such materials.

**REGISTERED DESIGN PROFESSIONAL.** An architect or engineer registered or licensed to practice professional architecture or engineering under the Occupational Code, Act No. 299 of the Public Acts of 1980, being sections 339.2001 through 339.2014 of the Michigan Compiled Laws.

**REHABILITATION CENTER (Halfway House).** An establishment whose primary purpose is the rehabilitation of persons. Such services include drug and alcohol rehabilitation, assistance to emotionally and mentally disturbed persons, and halfway houses for prison parolees and juveniles.

**RELIGIOUS, CULTURAL, AND FRATERNAL ACTIVITY.** A use or building owned or maintained by organized religious organizations or nonprofit associations for social, civil, or philanthropic purposes, or the purpose for which persons regularly assemble.

**RENOVATION.** Interior or exterior remodeling of a structure, other than ordinary repair.

**RESTAURANT.** An establishment whose principal business is the sale of food or beverages or

both to customers in a ready to consume state and whose principal method of operation includes one of the following characteristics:

- a. Customers are normally provided with an individual menu and are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed.
- b. A cafeteria-type operation where food and beverages are consumed within the restaurant building.

**RESTAURANT, FAST FOOD.** An establishment that sells food or beverages or both already prepared for consumption within the restaurant building or off-premises as a carryout order packaged in paper, styrofoam, or similar materials, and may include drive-in or drive-up facilities for ordering.

**RESTAURANT, TAKE OUT.** An establishment that sells food or beverages or both already prepared for consumption intended to be taken off the premises for consumption.

**ROAD FRONTAGE.** The length of the lot line that borders a public road.

**SCHOOL, COMMERCIAL.** A school establishment to provide for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum (e.g. beauty school or modeling school).

**SETBACK.** The minimum required open-space between the property line and the building line.

**SIGN.** An advertising message, announcement, declaration, demonstration, display, illustration, insignia, surface or space erected or maintained in view of the observer thereof for identification, advertisement, or promotion of the interests of any person, entity, product, or service, including the sign structure, supports, lighting system, and any attachments, ornaments, or other features used to draw the attention of observers.

**SIGNS, COMMUNITY.** Temporary on- or off-premises signs generally made of a woven material or durable synthetic materials primarily attached to or hung from light poles or on a building. These signs are solely of a decorative, festive, or informative nature announcing activities, promotions, or events with seasonal or traditional themes having broad community interest, and which are sponsored or supported by a City-based nonprofit organization.

**SITE PLAN.** A plan that outlines the use and development of any tract of land.

**SPECIAL LAND USE.** A use that would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions.

**SOLAR ENERGY.** Radiant energy (direct, diffuse and reflected) received from the sun.

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

**STATE.** The State of Michigan and its various branches and administrative agencies.

**STATE LICENSED RESIDENTIAL FACILITY.** A structure constructed for residential purposes that is licensed by the State under the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being sections 400.701 to 400.737 of the Michigan Compiled Laws, that provides resident services or care for six or fewer persons under twenty-four hour supervision for persons in need of that supervision or care.

**STORY.** That portion of building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story.

**STREET.** Any thoroughfare or public way not less than 16 feet in width which has been dedicated.

**STREET, PRIVATE.** A right-of-way or easement in private ownership not dedicated or maintained as a public street that affords the principal means of access to two or more sites.

**STRUCTURAL CHANGES.** Any construction or renovation to an existing structure other than repairs. Also, a change in a mechanical system that involves an extension, addition, or change to the arrangement, type or purpose of the original installation of the system.

**STRUCTURE.** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

**SUBDIVISION.** The division of a tract, lot, or parcel of land into two or more lots, plats, sites, or other divisions of land.

**TEMPORARY BUILDING OR USE.** A structure or use permitted by the Building Code Official to exist during periods of construction of the principal use or for special events, not to exceed six (6) months. Two extension periods of six (6) months each are allowed.

**THEATRE.** A building used primarily for the presentation of live stage productions, performances, or motion pictures.

**TOWNHOUSES:** A row of three (3) or more attached single-family dwellings, not more than two and one-half (2.5) stories in height and for which there is a rear and front entrance to each dwelling. Townhouse shall not be used as a synonym for the term “condominium” which refers to how property or space is owned rather than for a particular housing style.

**USE.** The activity occurring on a lot or parcel for which land or a building is arranged, designed, or intended, or for which land or a building is or may be occupied, including all accessory uses.

**USE, CHANGE OF.** The change within the classified use of a structure or premise.

**USE, NONCONFORMING.** A use that lawfully occupied a building or land at the time this Ordinance became effective, which has been lawfully continued and which does not now conform with the use regulations.

**USE, PRINCIPAL.** A use that fulfills a primary function of a household, establishment, institution, or other entity.

**USE, TEMPORARY.** A use that is authorized by this Ordinance to be conducted for a fixed period of time. Temporary uses are characterized by such activities as the sale of agricultural products, contractor's offices and equipment sheds, fireworks, carnivals, flea markets, and garage sales.

**VARIANCE.** A deviation granted by the Zoning Board of Appeals, as created in this Ordinance, from the use and dimensional requirements established by this code only for reasons established in this Ordinance.

**WAREHOUSE, WHOLESALE OR STORAGE.** A building or premises in which goods, merchandise, or equipment are stored for eventual distribution.

**YARD.** An open, unoccupied space on a lot, other than a court, which is unobstructed from the ground upward by buildings or structures, except as otherwise provided in this Ordinance.

**YARD, FRONT.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto.

**YARD, REAR.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and a line parallel thereto.

**YARD, SIDE.** An open, unoccupied space on the same lot with the building and between the building line and the side lot line.

**ZONING APPROVAL:** A document signifying compliance with the provisions of this Ordinance as to use, height, bulk, setback, parking, and all other dimensional requirements.

## ARTICLE III. ADMINISTRATION.

### Section 1. Powers and Duties of the Code Official.

#### **III – 1.01. General.**

This section establishes the duties and responsibilities for the zoning code official and other officials and agencies, with respect to the administration of this Ordinance. The zoning code official or his designee shall be referred to hereafter as “the code official”.

#### **III – 1.02. Appointment.**

The chief executive officer of the City shall appoint the code official whom shall be charged with the enforcement of this Ordinance.

#### **III – 1.03. Deputies.**

The code official may appoint such number of technical officers and other employees as shall be authorized from time to time by the Common Council. The code official shall be permitted to deputize such employees as may be necessary to carry out the functions of this Ordinance.

#### **III – 1.04. Enforcement.**

Unless otherwise provided, the code official shall apply and enforce the provisions of this Ordinance. An appeal of an application of this Ordinance by the code official shall be submitted to the Zoning Board of Appeals, which, unless otherwise provided, may interpret this Ordinance, and such interpretation shall be considered final.

#### **III – 1.05. Administrative Reviews and Permits.**

- 1.05.1. Certificate of Compliance.* The code official shall receive all applications for certificates of compliance and coordinate and perform the necessary inspections.
- 1.05.2. Review of Zoning Permits.* The code official shall be authorized to undertake reviews, make recommendations, and grant approvals as set forth in this Ordinance. All applications for building and zoning permits and amendments thereto shall be submitted to the code official for review and approved before permit issuance. Each application shall include a set of plans and all data necessary to show that the requirements of this Ordinance are met.
- 1.05.3. Site Plan Reviews.* The code official shall receive all applications for site plan review and prepare submittals for review by the Plan Commission.
- 1.05.4. Special Land Use Permits.* The code official shall receive all applications for special land uses as shall be permitted or approved as required by this Ordinance and prepare submittals for review by the Plan Commission.
- 1.05.5. Variance Applications.* The code official shall receive all applications for use variances and dimensional variances as required by this Ordinance and prepare submittals for review by the Zoning Board of Appeals.

#### **III – 1.06. Comprehensive Plan.**

The code official shall assist the Commission in the development of the Comprehensive Plan.



### **III – 1.07. Cooperation of other Officials and Officers.**

The code official shall be authorized to request, and shall receive so far as is required in the discharge of the duties described in this Ordinance, the assistance and cooperation of other officials and officers of the City.

### **III – 1.08. Liability.**

The code official, acting in good faith and without malice in the discharge of the duties described in this Ordinance, shall not be personally liable for any damage that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the code official or any employee because such act or omission performed by the code official or the employee in the enforcement of any provisions of such codes or other pertinent law or ordinances implemented through the enforcement of this code or enforced by the enforcing agency shall be defended by the City until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by the City. This Ordinance shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or parcel of land for any damages to persons or property caused by defects, nor shall the enforcing agent or the City be held as assuming any such liability by reason of the reviews or permits issued under this Ordinance.

## Section 2. Permits and Approvals.

### **III – 2.01. General.**

All departments, officials, and employees who are charged with the duty or authority to issue permits or approvals shall not issue any permit or approval for uses or purposes when the permit or approval would be in conflict with this Ordinance. No permit shall be issued to any person who is in default to the City. By way of illustration, a person in default could owe the City income tax, property tax, water bill, or a business license fee. If a written payment plan has been accepted by the chief executive officer, the code official shall issue a conditional permit if all other provisions of this Ordinance are met. Any permit or approval, if issued in conflict with this Ordinance, shall be null and void.

### **III – 2.02. Permits.**

*2.02.1. Conformance to Zoning.* No use, building, or structure, whether publicly or privately owned, shall be constructed or authorized until the location and extent thereof conform to the approved plan and the code official has issued the proper permits. Specifically, a zoning permit shall be obtained before the construction, physical development, or razing of a proposed new or expanded use, structure, or building; the restoration and structural improvement of any existing use or structure other than normal repairs and minor improvement; or a change of one use to any other use. When a building permit is required, zoning approval shall be an eligibility requirement or prerequisite for such permit.

*2.02.2. Expiration or Cancellation.* Each license, permit, or approval issued shall expire after 180 days if no work is undertaken or such use or activity is not established, unless a different time of issuance of the license or permit is allowed in this Ordinance, or unless an extension is granted by the Zoning Board of Appeals before expiration. Failure to comply fully with the terms of any permit, license, or approval shall be permitted to be grounds for cancellation or revocation. Action to cancel any license, permit, or approval shall be permitted to be taken on proper grounds by the code official. Cancellation of a

permit or approval by the Commission or Board shall be permitted to be appealed in the same manner as its original action.

- 2.02.3. *Validity of Licenses, Permits, Approvals, and Variances.* The code official shall require that the development or use in question before the Commission or Board proceed only under the terms of such license, permit, approval, or variance including any requirements or conditions established as a condition of issuance by the Commission or Board. Except as specifically provided for in this Ordinance and conditions of approval, the securing of one required review or approval shall not exempt the recipient from the necessity of securing any other required review or approval.
- 2.02.4. *Approval for and Availability of Essential Services.* All projects that require the additional use of new facilities or essential services, such as sewers, storm drains, fire hydrants, potable water, public streets, street lighting, and similar services, shall obtain such approval as required by the agency providing such services before project approval and permit issuance. Nonavailability of essential services shall be permitted to be grounds for denying permits for additional development until such services are available. The City is not obligated to extend or supply essential services if capacity is not available. If capacity is available, the extension of such services shall be by and at the cost of the developer. All service extensions shall be designed and installed in full conformance with the City's standards for such service, and shall be subject to review, permit, and inspection as required by other policies or ordinances of the City.

### **III – 2.03. Certificate of Compliance Required.**

A person shall not occupy a new structure, except an owner-occupied dwelling unit, or lot, or occupy an existing structure or lot until the code official has issued a certificate of compliance. If a change in ownership occurs in an established business, a certificate of compliance shall be required. Before a certificate of compliance is issued, the code official and other interested City officials and departments shall perform a thorough inspection intended to insure that both the structure and the use comply with all zoning requirements and any conditions previously imposed. After inspection and consultation with other interested City officials and departments, the code official shall:

- a. Issue the certificate of compliance if all requirements of this Ordinance are satisfied and all conditions, if any, have been met;
- b. Deny the certificate of compliance if all of the requirements of this Ordinance are not satisfied and all conditions, if any, have not been met, with such denial being in writing and clearly identifying the reasons for denial and imposing a time frame for compliance;
- c. Issue a temporary certificate of compliance for no more than sixty days, if in the opinion of the code official the reasons for possible denial are minor and can be addressed within a reasonable period of time; the temporary certificate of compliance shall have conditions imposed by the code official.

### **III – 2.04. Fees.**

A fee for services shall be charged. All fees shall be established by resolution of the Common Council during the adoption of the annual budget. Failure to apply for the appropriate zoning permit and paying the appropriate fee shall result in a municipal civil infraction and a doubling of the permit fee.

Section 3. Performance Guarantee.

**III – 3.01. Authority.**

To insure compliance with this Ordinance and any conditions imposed under this Ordinance, in authorizing any zoning permit, special land use approval, or variance, the body or official charged with administering, as designated by this Ordinance, the respective request may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond in an amount authorized by this Ordinance be deposited with the city treasurer to insure faithful completion of the improvements. The performance guarantee shall be deposited when the permit is issued authorizing the activity or project. 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 under the Land Division Act, Act No. 288 of the Public Acts of 1967, as amended, being sections 560.101 to 560.293 of the Michigan Compiled Laws.

**III – 3.02. Amount of Bond.**

Unless otherwise specified in this Ordinance, the Common Council shall by resolution during adoption of the annual budget establish a guideline for the amount of bonds that the Common Council deems adequate for the protection of the City and its inhabitants.

**III – 3.03. Return of Performance Bond.**

Upon the satisfactory completion of specific requirements as attested to by the code official, the city treasurer shall be authorized to return any improvement or performance bond without interest that may pertain to the specific improvement.

**III – 3.04. Withholding and Partial Withholding of Performance Bond.**

When the project is not satisfactorily completed, the code official may direct the city treasurer not to return all or part of any bond; but to apply the bond or part thereof to the project in question. If any action begin and fail to meet full completion based on the approve site plan, or if the project area is reduced in size and action is only partially completed, the code official shall determine the amount of the bond or bonds to be returned to the applicant, without interest, and the amount be applied to the improvements.

Section 4. Plan Commission.

**III – 4.01. General.**

This section addresses the duties and responsibilities of the City Plan Commission, hereafter referred to as “the Commission”, and other officers and agencies, with respect to the administration of this Ordinance.

**III – 4.02. Establishment of the Commission.**

The City Plan Commission is hereby established under the Municipal Planning Act, Act No. 285 of the Public Acts of 1931, being sections 125.31 to 125.45 of the Michigan Compiled Laws. The Commission shall consist of the mayor of the City, and one member of the Common Council to be selected by the Common Council as members ex officio, and seven other persons who shall be appointed by the mayor as provided in this Ordinance. All ex officio members, appointed under this Ordinance, shall have full voting rights.

### **III – 4.03. Terms of Office.**

- 4.03.1. *Appointment.* The terms of the ex officio members shall correspond to their respective official tenures, except that the term of the administrative official selected by the mayor shall terminate with the term of the mayor. All commissioners who are members of the Plan Commission established by Ordinance No. 194 upon the effective date of this Ordinance shall serve until their term expires. The appointing authority shall not make an appointment or reappointment until the term of the appointed member has expired. The term of each appointed member shall be three years or until his successor takes office. The terms of office of each appointed member shall thereafter expire on January 1 in the year of expiration.
- 4.03.2. *Removal from Office.* Upon written charges and after a public hearing, the mayor may remove a member, other than the member selected by the Common Council, for inefficiency, neglect of duty, or malfeasance in office. The Common Council may for like cause remove the member selected by the Common Council upon written charges and after a public hearing.
- 4.03.3. *Vacancies.* A vacancy on the Commission occurring otherwise than through the expiration of term shall be filled within 30 days for the unexpired term by the mayor in the case of a member selected or appointed by the mayor, and by the Common Council in the case of the member appointed by the Common Council.

### **III – 4.04. Membership Requirements.**

An appointed member shall be a resident of the City for not less than thirty days before his appointment and shall maintain residency during his term; if an appointed member discontinues his residency within the City, the mayor shall declare the position vacant and shall appoint another qualified person within thirty days. An appointed member shall not hold another municipal office except that one appointed member may be a member of the Zoning Board of Appeals or a member of a joint fire administrative board.

### **III – 4.05. Compensation.**

An appointed member of the Commission may be compensated at a rate to be determined by the Common Council during its adoption of the annual budget and may be reimbursed for pre-approved expenses related to performing his duties.

### **III – 4.06. Powers and Duties of the Commission.**

- 4.06.1. *Meetings.* All meetings of the Commission shall be conducted under the Open Meetings Act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. The Commission shall meet annually in January for the purpose of electing officers and adopting rules for transaction of business. The Commission shall hold not less than one regular meeting in each month. The chairman may call special meetings. The mayor shall be empowered to set the date and time of the annual meeting.
- 4.06.2. *Quorum and Votes Required.* The Commission shall not conduct business unless a majority of its members are present. Unless otherwise provided in this Ordinance, the concurring vote of a majority of its voting members shall be required to pass on any decision, approval, or determination that the Commission may make under this Ordinance. Any three members of the Commission shall have the power at any meeting to schedule a public hearing.

- 4.06.3. *Records to be Public.* The city clerk shall keep a record of the Commission's resolutions, transactions, findings, and determinations, which record shall be a public record subject to the Freedom of Information Act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 12.246 of the Michigan Compiled Laws.
- 4.06.4. *Chairman.* The Commission shall elect its chairman from amongst the appointed members and create and fill such other offices as the Commission may determine. The term of the chairman shall be one year, with eligibility for reelection.
- 4.06.5. *Annual report.* By January 31 of each year, the Commission shall make an annual report of the activities of the Commission of the previous calendar year and forward recommendations to the Common Council.
- 4.06.6. *Comprehensive plan, subdivision of land, and approval or disapproval of plats.* The Commission shall be vested with all powers vested in a municipal planning commission under The Municipal Planning Act, Act No. 285 of the Public Acts of 1931, being sections 125.31 to 125.45 of the Michigan Compiled Laws, commencing with section 125.36 et seq.
- 4.06.7. *Zoning ordinance.* The Commission shall develop and recommend to the Common Council, under the guidelines of the comprehensive plan, a zoning ordinance and official zoning map establishing zoning districts within the City. Such an ordinance shall be made in regards to the character of each district and the most appropriate use of land within the City.
- 4.06.8. *Site plan reviews.* The Commission shall review all site plans submitted under this Ordinance and the conditions imposed thereunder, and shall approve all site plans that contain the information required by this Ordinance, other applicable City ordinances, and state and federal statutes.
- 4.06.9. *Special land use permits.* The Commission shall review all requests for a special land use in accordance with Article XIII, Section 4. If required by the code official, maps, drawings, or other documentation in support of the request shall accompany the application. The granting of a special land use permit shall not exempt the applicant from compliance with other relevant provisions of related ordinances.
- 4.06.10. *Employees, contracts for services, and expenditures.* The Commission may appoint such employees as the Commission may deem necessary for its work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of law that govern other corresponding civil employees of the City. The Commission may also contract with planners, engineers, architects, and other consultants for such services as the Commission may require. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Common Council, which shall provide the funds, equipment, and accommodations necessary for the Commission's work.
- 4.06.11. ***Conflict of Interest: No member of the commission may participate in any decision, approval, or determination with regard to any matter of which he/she has a direct interest.***

### **III – 4.07. Appeals and Hearings.**

Any person with standing aggrieved by any decision of the Commission shall have the right to make such appeals as shall be permitted to be provided by this Ordinance or state law. Such appeals shall be based on the record.

## Section 5. Zoning Board of Appeals.

### **III – 5.01. General.**

This section addresses the duties and responsibilities of the Zoning Board of Appeals, hereafter referred to as “the Board”, and other officers and agencies, with respect to the administration of this Ordinance.

### **III – 5.02. Establishment of the Board.**

The Zoning Board of Appeals is hereby established under the City and Village Zoning Act, Act No. 207 of the Public Acts of 1921, being sections 125.581 to 125.600 of the Michigan Compiled Laws. The Board shall consist of seven members, each to be appointed by the Common Council as provided for in this Ordinance, within ten days after the effective date of this Ordinance. The Common Council may also appoint not more than two alternate members for the same term as regular members of the Board. The alternate members may be called on a rotating basis as specified in this Ordinance to sit as regular members of the Board in the absence of a regular member or in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. A member shall disqualify himself from a vote in which he has a conflict of interest. The alternate member called shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Board.

### **III – 5.03. Terms of Office.**

- 5.03.1. Appointment.* The terms of office for the membership of the Board shall be three years, expiring on January 1 in the year of expiration. Appointments of the first members of this Board created under this Ordinance shall be for terms of one, two, and three years, respectively, so as nearly as possible to provide for the subsequent appointment of an equal number of members each year, except that three members shall be appointed to the one-year term. After the initial appointments, each member shall hold office for the full three-year term.
- 5.03.2. Removal from Office.* The Common Council shall, upon written charges and after a public hearing, remove members of the Board for nonperformance of duty or misconduct in office.
- 5.03.3. Vacancies.* Within 30 days, the Common Council shall fill a vacancy on the Board occurring otherwise than through the expiration of term for the unexpired term.

### **III – 5.04. Membership Requirements.**

An appointed member shall be a resident of the City for not less than thirty days before his appointment and shall maintain residency during his term; if an appointed member discontinues his residency within the City, the Common Council shall declare the position vacant and shall appoint another qualified person within thirty days. An appointed member shall not hold another municipal office except that one appointed member may be a member of the Plan Commission.

### **III – 5.05. Compensation.**

Appointed and alternate members of the Board may be compensated at a rate to be determined by the Common Council during its adoption of the annual budget and may be reimbursed for pre-approved expenses related to performing their duties.

### **III – 5.06. Powers and Duties of the Board.**

- 5.06.1. *Meetings.* All meetings of the Board shall be conducted under the Open Meetings Act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. The Board shall meet annually in January for the purpose of electing officers and establishing rules and procedures under this Ordinance and applicable state laws for transaction of business. All meetings of the Board shall be held at the call of the Chairman under their adopted procedures and at such other times as the Board shall determine or specify in its rules of procedure. The mayor shall be empowered to set the date and time of the annual meeting. The public shall be afforded an opportunity to speak at any public hearing under the rules of procedure and by-laws of the Board.
- 5.06.2. *Quorum and Votes Required.* The Board shall not conduct business unless a majority of its members are present. The concurring vote of a majority of the members of the Board is necessary to reverse an order, requirement, decision, or determination of and administrative official or body, or to decide in favor of the applicant a matter upon which the Board shall pass under an ordinance, or to effect a variation in an ordinance except that a concurring vote of two-thirds of the members of the Board is necessary to grant a variance from uses of land permitted in an ordinance.
- 5.06.3. *Records to be Public.* The city clerk shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record subject to the Freedom of Information Act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 12.246 of the Michigan Compiled Laws.
- 5.06.4. *Chairman.* The Board shall elect its chairman from amongst the members and create and fill such other offices as the Board may determine. The term of the chairman shall be one year, with eligibility for reelection.
- 5.06.5. *Board Secretary.* The code official shall appoint a secretary to assist the Board. The secretary shall keep minutes of the Board meetings for public record and conduct all correspondence, including notification of decisions. The secretary shall also certify records. The secretary shall prepare and submit minutes of the Board meetings to the chairman and to the Board.
- 5.06.6. *General Powers.* The Board shall hear and decide appeals from and review any order, requirements, decision, or determination made by the code official. The Board shall also hear and decide matters referred to the Board or upon which the Board shall pass under this Ordinance. For special land use decisions, an appeal may be taken to the Board.
- 5.06.7. *Interpretations.* The Board may interpret this Ordinance and the Map and all matters relating thereto when a question arises in the administration of this Ordinance as to the meaning and intent of any provision or part of this Ordinance. Any text interpretation shall be narrow and in a manner as to carry out the intent and purpose of this Ordinance. Interpretations shall not have the effect of amending this Ordinance. Map interpretations shall be based on the rules of this Ordinance and any relevant historical information.
- 5.06.8. *Screening and Lighting Controversies.* If any controversy as to the adequacy of any proposed or existing screening or the creation of any nuisance or annoyance by artificial lighting occurs, the Zoning Board of Appeals shall have the right and is hereby given the authority to interpret and determine the screening and lighting provisions and the purpose herein sought to be accomplished.
- 5.06.9. *Extension of licenses, permits, or approvals.* Upon application, the Board may grant extensions in the time limits of each license, permit, or approval issued in accordance with Section III-2.02.

5.06.10. *Appeals of Administrative Decisions.* The Board may hear and decide appeals when the appellant alleges that there is error in any order, interpretation, requirement, permit, decision, or refusal made by the code official in enforcing any provision of this Ordinance.

5.06.11. *Modification and Variance of Ordinance Requirements.*

**5.06.11.1. Non-use variance.** The Board shall be permitted to approve or approve with conditions by a simple majority vote of the Board a request for a dimensional or non-use variance provided that the property owner demonstrates practical difficulty by showing all of the following:

- a. Strict compliance with the area, setbacks, frontage, height, bulk, or density requirements of this Ordinance would unreasonably prevent the property owner from using property for some lawful permitted purpose or would render conformity unnecessarily burdensome in the particular case.
- b. A variance shall do substantial justice to both the property owner and neighboring property owners in the district or that a lesser requirement would give substantial relief and be more consistent with justice to others.
- c. The plight of the property owner is due to unique circumstances of the property.
- d. The problem of the property owner is not self-created.

If the property owner demonstrates the above criteria, the Board may consider the following types of non-use variance requests:

- a. All matters referred to the Board or upon which the Board shall hear and decide under this Ordinance.
- b. Permit such modification of the height, placement, and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape or so located with relation to surrounding development or physical characteristics that the lot cannot otherwise be appropriately improved without such modification.
- c. Permit the modification of the automobile parking space or loading space requirements when, in the particular instance, such modifications shall not be inconsistent with the purpose and intent of such requirement.
- d. Permit variances for items such as buffering, screening, fencing, or landscaping.

**5.06.11.2. Use variance.** The Board shall be permitted to grant by a two-thirds vote of the Board a use variance of the literal provisions of this Ordinance to a property owner provided that the property owner demonstrates all of the following:

- a. Showing of unnecessary hardship on the property owner if this Ordinance was strictly enforced. The landowner shall prove that the land cannot be put to a reasonable use or yield a reasonable return under its existing zoning classification.
- b. The hardship shall be unique or peculiar to the particular parcel and cannot be the result of general neighborhood conditions.
- c. There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same zone.
- d. The variance is necessary to the preservation and enjoyment of a substantial property right possessed by other property in the same zone and proximity.



- e. The variance shall not result in the alteration of the essential character of the neighborhood by impairing an adequate supply of light and air to adjacent property, increasing traffic congestion in public streets, increasing the danger of fire, endangering the public safety, or unreasonably diminishing or impairing established property values within the surrounding area.
- f. The variance is a minimum variance that shall make possible the reasonable use of the land, building, or structure.
- g. The variance shall be in harmony with the general purpose and intent of this Ordinance and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.

*5.06.12. Time Limitations on a Variance.* If the Board approves a variance, the variance shall remain in effect only so long as the facts and circumstances as presented to the Board and upon which the variance was granted continue to exist, and that the conditions attached to the approval are satisfied and maintained. If the variance is not exercised within 12 months from the date the variance is granted (unless the Board establishes a different time period as a condition), the variance shall lapse. If the variance has lapsed and the petitioner desires to proceed with the benefits of the variance, the petitioner shall reapply for the variance and demonstrate that all of the requirements for approval of a variance have been met, based upon the facts and circumstances in existence when the new request was submitted. The Board shall have the right to deny the variance if the facts and circumstances pertaining to the request have changed, if the petitioner is not willing to satisfy the conditions attached to the original approval, or if the petitioner has not demonstrated that all of the substantive requirements for the granting of a variance have been satisfied as of the time the new application for variance is filed.

### **III – 5.07. Appeals and Hearings.**

*5.07.1. Filing, time limit.* An appeal under this Ordinance shall be commenced by a person filing notice of appeal or petition as described in the rules and procedures of the Board, within thirty-five (35) days, and with the appropriate filing fee as annually determined by the Common Council upon adoption of the budget, with the code official. The notice of appeal shall specify the specific grounds upon which the appeal is based and shall be signed by the applicant and property owner. The appeal shall specify the requirement from which a variance is sought and the nature and extend of such variance. The appeal shall be accompanied by a fully completed application along with any other information required by the Board. The code official shall immediately send to the Board all the papers constituting the record upon which the action appealed from was taken. No appeal under this Ordinance shall be taken if such applicant is in default to the City and is not eligible to be issued a permit under this Ordinance.

*5.07.2. Notification of hearing.* The Board shall fix a reasonable time for the hearing of the appeal and give notice of the appeal to the persons to whom real property within 300 feet of the premises in question is assessed, and to the occupants of single and two-family dwellings within 300 feet. The notice shall be delivered personally or by mail addressed to the respective owners and tenants at the address given in the last assessment roll. If a tenant's name is not known, the term "occupant" may be used. A person may appear in person or be represented by a duly authorized agent at the hearing.

*5.07.3. Effect of filing.* An appeal under this Ordinance stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken

certifies to the Board, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would in the opinion of the officer or body cause imminent peril to life or property. If such a certification is filed, the proceedings shall only be stayed by a restraining order. A restraining order may be granted by the Board or by the circuit court, on application, on notice to the officer or body from whom the appeal is taken and on due cause shown.

- 5.07.4. *Board to Decide.* The Board shall decide the appeal within seventy-five (75) days. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and shall make an order, requirement, decision, or determination as in the Board's opinion ought to be made in the premises, and to that end shall have all the powers of the officer or body from whom the appeal is taken, all subject to limitations identified in this Ordinance. If there are practical difficulties or unnecessary hardships in carrying out the strict letter of this Ordinance, the Board may in passing upon appeals grant a variance in any of its rules or provisions relating to the construction, or structural changes in, equipment, or alteration of buildings or structures, or the use of land, buildings, or structures, so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done.
- 5.07.5. *Official Record of Hearing.* The Board shall prepare an official record for each appeal and shall base its decision on this record. The official record shall include the relevant administrative record and administrative orders issued thereon relating to the appeal, the notice of the appeal, and such documents, exhibits, photographs, or written reports as may be submitted to the Board for its consideration, and the minutes of the hearing, findings of fact, and decisions and order of the Board. The record and decision of the Board shall comply with the constitution and the laws of the State, be based on proper procedure, be supported by competent material and substantial evidence on the record, and represent the reasonable exercise of discretion granted by law to the Board.
- 5.07.6. *Appeal to Circuit Court.* The decision of the Board is final. However, a person having an interest affected by this Ordinance may appeal to the circuit court. If the court finds the record of the Board inadequate to make the review required under state law, or that additional material evidence exists that with good reason was not presented to the Board, the court shall order further proceedings before the Board on conditions that the court considers proper. The Board of appeals may modify its findings and decision as a result of the new proceedings, or may affirm the original decision. The supplementary decision shall be filed with the court.

### **III – 5.08. Limitations on the Powers of the Board.**

- 5.08.1. *Common Council decisions.* Nothing contained herein shall empower the Board to override the decisions of the Common Council with respect to the approval or denial of any decision authorized to be made by the Common Council.
- 5.08.2. *Zoning Map.* Nothing contained herein shall empower the Board to change the terms of this Ordinance, to effect changes in the Zoning Map, or to add to the uses permitted in any zoning district, except when specifically empowered to do so by this Ordinance.
- 5.08.3. *Variance Conditions.* In authorizing a variance or taking any other action within its jurisdiction, the Board may attach such conditions as may be deemed necessary in the furtherance of the purposes of this Ordinance, provided any conditions are in compliance with the standards contained herein. The conditions imposed by the Board may include conditions necessary to ensure that public services and facilities affected by a proposed

land use or activity shall be capable of accommodating increased service and facility loads caused by the land use or activity, protect the natural environment, conserve natural resources and energy, ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:

- a. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who shall use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole;
- b. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity;
- c. Be necessary to meet the intent and purpose of the zoning regulations, be related to the standards established in this Ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.

The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the property owner. The Board shall maintain a record of changes granted in conditions. Any changes in the conditions shall be filed with the Register of Deeds as provided herein.

5.08.4. *Basis of decisions.* Every decision of the Board shall be based upon findings of fact, and every such finding shall be supported in the record and proceedings of the Board.

## ARTICLE IV. ZONING DISTRICTS AND MAP.

### Section 1. General.

#### **IV – 1.01. Classification.**

To classify, regulate, and restrict the locations of uses and locations of buildings designated for specific areas, and to regulate and determine the areas of yards, courts, and other open spaces within or surrounding such buildings, the City is hereby divided into zoning districts as prescribed in this article. To the extent possible, these zoning districts are established under the City’s proposed Master Land Use Plan.

#### **IV – 1.02. Zoning Map.**

*1.02.1. Boundaries.* The boundaries of these districts are hereby established as shown on the City of Hamtramck Official Zoning Map, referred hereinafter as “the Map”, which accompanies this Ordinance as Appendix A, and which Map, with all notations, references and other information shown thereon, shall be as much a part of this Ordinance as if fully described herein.

*1.02.2. Changes to Boundaries.* Under this Ordinance, if changes are made in district boundaries or other matter portrayed on the Map, such changes shall be made on the Map after the amendment has been approved by the City Council, together with an entry on the Map as follows: amended date, Ordinance No. ()).

*1.02.3. Official Copies.* Two copies of this Ordinance and the Map are to be maintained and kept up-to-date. One copy shall be filed with the code official and the other shall be filed with the city clerk, whose copy shall be the final authority as to the current zoning status of lands, buildings, and other structures in the City.

*1.02.4. District Boundaries Interpreted.* If, due to the scale, lack of details, or illegibility of the Map, there is any uncertainty, contradiction, or conflict as to the intended location of any zoning district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined by the Board upon written application. The Board, in arriving at a decision on such matters, shall apply the following standards:

- a. The boundaries of zoning districts are intended to follow centerlines of alleys, streets, or other rights-of-way, or be parallel or perpendicular thereto, unless such district boundary lines are otherwise clearly indicated on the Map;
- b. Where district boundaries are so indicated that they approximately follow lot of record lines, such lot lines shall be construed to be boundaries;
- c. In unsubdivided property, or where a district boundary divides a lot of record, the location of such boundary, unless shown by dimensions on the Map, shall be determined by use of the map scale shown thereon.

*1.02.5. Zoning Status of Public, Semi-Public, and Parks/Open Space Designations.* Where the Map indicates public, semi-public, or parks/open space, such areas shall be considered to be zoned in the area that borders the area in question on not less than three sides. If a clear distinction cannot be made, then the zoning shall be considered R, except as otherwise indicated in this section. For clarification purposes the following commonly known locations shall be considered to be placed in the following districts:

- a. R District, sites of:
  1. Corinthian Baptist Church;
  2. Kosciuszko Middle School;
  3. Hamtramck Fire Department;

4. Hamtramck Public Library;
  5. St. Ladislaus Church properties;
  6. Immaculate Conception Church properties;
  7. Hamtramck High School and Community Center;
  8. Our Lady Queen of Apostles Church properties;
  9. Pulaski Park;
  10. St. Florian Church properties;
  11. St. Peter Zion, A.M.E. Church properties;
  12. Hamtramck City Hall;
  13. Dickinson Elementary School;
  14. St. Joseph Living Center properties;
  15. Tau Beta;
  16. Veterans' Memorial Park, Playfair, and Keyworth stadium;
  17. Holbrook Elementary School;
  18. Eastside of Conant, between Oliver and Dorothy.
- b. I District, sites of:
1. Wayne County Jail;
  2. Southeast corner of Conant and Holbrook.

1.02.6. *Annexed Territory.* Any territory hereafter annexed shall automatically, upon such annexation, be classified as “Residential” and shall be subject to all conditions and regulations applicable to property in such district.

## Section 2. Conformity to Ordinance Regulations.

### **IV – 2.01. Scope.**

Zoning effects every structure and use. No structure, building, or land shall be used, occupied, erected, constructed, moved, or altered, except in conformity with the regulations specified for that zoning district. Unless a use is specifically permitted in a particular zoning district, the use shall be prohibited in that zoning district. If any building, structure, or land is used, erected, altered, or occupied contrary to law or to the provisions of this Ordinance, such building, structure, or use shall be declared a nuisance and shall be required to be vacated, torn down, or abated by any legal means and shall not be used or occupied until the building, structure, or use has been brought into compliance.

### **IV – 2.02. Area, Bulk, and Height Requirements.**

Except as otherwise provided, regulations governing land and building use, minimum lot size, lot area per dwelling unit, building height, building placement, required yards, and other pertinent factors are hereby established as stated in the detailed provisions for each of the zoning districts and shall apply uniformly to each class or kind of structure, land, or use within the appropriate district.

### **IV – 2.03. Application of Regulations.**

The regulations set by this Ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure, land, or use. All buildings, structures, or land may hereafter be used, constructed, altered, or occupied only when in conformity with all of the regulations herein specified for the district in which it is located. No building or other structure shall hereafter be altered to accommodate or house a greater number of persons or families, or to have narrower or smaller rear yards, front yards, or other side yards than permitted by the district in which it is

located. No lot existing when this Ordinance or subsequent amendment became effective shall be subdivided or reduced in dimension or area below the minimum requirements of the district in which the lot is located. Lots created after the effective date of this Ordinance shall meet the minimum requirements established by this Ordinance.

#### **IV – 2.04. Uses.**

- 2.04.1 General.* The principal objective of this Ordinance is to provide for an orderly arrangement of compatible buildings and land uses and for the proper location of all types of uses required for the social and economic welfare of the community. To accomplish this objective, each type and kind of use is classified as permitted in one or more of the various districts established by this Ordinance. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses that may be allowed because of the unusual characteristics of the service the use provides to the public. These special land uses require particular consideration as to their proper location to adjacent, established, or intended uses, or to the planned growth of the community. The conditions controlling the locations and operation of such special land uses are established by applicable sections of this Ordinance.
- 2.04.2. Permitted Uses.* In each zoning district a “permitted use” shall be a use of land or buildings subject to the minimum requirements specified for such use in the zoning district in which such use is located, plus applicable requirements found elsewhere in this Ordinance.
- 2.04.3. Special Land Uses.* A special land use shall be a use of land or buildings that may be permitted in that district only after following special procedures designed to ensure site and use compatibility with existing or proposed surrounding land uses. In evaluating and deciding each application for such permission, the Commission shall apply the standards contained in Article XIII of this Ordinance and any special conditions imposed for that use. Uses are permitted within the various districts described in this Ordinance and as otherwise provided herein.
- 2.04.4. Unclassified Uses.* The City recognizes that all possible uses and variations of uses that might arise cannot reasonably be listed or categorized. Mixed uses/sites or any use not specifically mentioned or about which there is any question shall be administratively classified by comparison with other uses identified in the districts described in this Ordinance. If the proposed use resembles identified uses in terms of intensity and character, and is consistent with the purpose of this Ordinance and the individual district classification, the use shall be considered as a permitted use within the appropriate district classification, subject to the regulations for the use it most nearly resembles. If a use does not resemble other identified allowable uses within a district, the use may be permitted as determined by the Board after a public hearing as a variance to this Ordinance under Article III.

## ARTICLE V. RESIDENTIAL ZONES.

### Section 1. Residential District (R).

#### **V – 1.01. Intent.**

The Residential District (R) is established to encourage integration of a range of housing types and to enhance individual and neighborhood safety in a workable neighborhood oriented around the five-minute walk.

#### **V – 1.02. Permitted Uses.**

In the R District, only the following uses shall be permitted subject to the provisions of this Ordinance:

- a. Accessory buildings and uses as identified in this article;
- b. Condominiums, provided that more than four unrelated people shall be permitted to reside in one dwelling unit;
- c. Dwellings, single-family detached, provided that more than four unrelated people shall be permitted to reside in one dwelling unit;
- d. Dwellings, two family, provided that more than four unrelated people shall be permitted to reside in one dwelling unit;
- e. Home occupations as permitted in Article IX, Section 11;
- f. Public utility stations;
- g. Public owned and operated parks and outdoor recreation facilities and open space;
- h. Public services;
- i. Parochial, private, public, or charter elementary, junior high, and high schools;
- j. Religious, cultural, and fraternal activities;
- k. Congregate residences.
- l. **Townhouses**

#### **V – 1.03. Uses Subject to Special Land Use Approval.**

In the R district, only the following uses shall be permitted, subject to the limitations of the special land use process as prescribed by this Ordinance:

- a. Apartment houses;
- b. Bars;
- c. Boarding houses;
- d. Brewery;
- e. Brewpub;
- f. Confectioneries and delicatessens;
- g. Day care, family;
- h. Day care, group;
- i. Distillery;
- j. Grocery stores;
- k. Medical and dental clinics;
- l. Mortuary, funeral homes;
- m. Mixed-use buildings containing a residential single family dwelling or dwellings and no more than one of the special land uses identified in this section;
- n. Production Filming;
- o. State licensed residential facilities;

#### **V – 1.04. Accessory Buildings and Uses.**

The following accessory buildings and uses shall be permitted in the R district:

- a. Accessory living quarters

- b. Garage, private;
- c. Gazebos or arbors;
- d. Household pets;
- e. Parking lots shall be permitted as an accessory use for special land uses.
- f. Private swimming pools;
- g. Sheds.

**V – 1.05. Area, Height, and Bulk Requirements.**

- a. Minimum lot size in square feet: 2,700.
- b. Maximum lot size in square feet: 6,000.
- c. Minimum lot dimensions in feet: width: 30; depth: 60.
- d. Maximum height of building: in stories: 3; in feet: 35.
- e. Minimum yard setback in feet: front: 6 and within 2 feet of adjacent structures; rear: 30; sides: 5.5 combined with a minimum of 2.5 on not less than one side.
- f. Minimum floor area per single-family dwelling unit (in square feet): 800.
- g. Minimum floor area per dwelling unit in a two- or multiple-family dwelling unit (in square feet): 700.
- h. Maximum lot coverage by all buildings: 67%.

**V – 1.06. Structure and Site Requirements.**

- a. All new dwelling units shall have an unenclosed front porch located close to the sidewalk, designed as places to sit, socialize, and observe the street.
- b. All new single- and two-family dwelling units shall have a two-car garage on the same lot.
- c. Parking lots shall be screened from upper unit views, with trees, trellises, or carports.
- d. The street address shall be attached to the back gate.
- e. Two garbage cans placed on an elevated rack or in an enclosed building are required for each dwelling unit; in the event of a semi- or fully-automated system of refuse collection, this provision is waived.
- f. Only vertically oriented windows shall be permitted on the front façade.
- g. The front door shall face the front lot line.
- h. All new houses shall have a minimum twenty-four inch finished first floor line above grade.
- i. No new driveways or curb cuts in residential zones shall be permitted unless authorized by this Ordinance.
- j. Unless the entire front yard is one hundred square feet or less, not less than fifty percent of the uncovered lot shall be landscaped with organic materials not prohibited by this Ordinance or other ordinances of the City of Hamtramck.
- k. All detached single- or two-family dwellings shall have a roof pitch of eight-twelve or greater.
- l. Mansard roofs shall not be permitted.
- m. All dwelling units shall be consistent with surrounding housing styles.
- n. No single-family detached dwelling shall be erected upon a lot with another single-family detached dwelling.



Section 2. Multiple Family Residential District (RM).

**V – 2.01. Intent.**

The Multiple Family Residential District (RM) is intended to serve the residential needs of families and single persons desiring greater density, apartment-type of accommodation with central services, as opposed to the residential pattern found in the R district.

**V – 2.02. Permitted Uses.**

In the RM District, only the following uses shall be permitted subject to the provisions of this Ordinance:

- a. Accessory buildings and uses as identified in this article;
- b. Apartment houses;
- c. Boarding houses;
- d. Condominiums;
- e. Day care, family;
- f. Day care, group;
- g. Recreation, outdoor;
- h. Townhouses.

**V – 2.03. Uses Subject to Special Land Use Approval.**

In the RM district, only the following uses shall be permitted, subject to the requirements of the special land use process as prescribed by Article XIII:

- a. Hotel.
- b. Parking lots.
- c. An apartment house with a grocery store, laundromat, barber shop, beauty salon, confectionery, or delicatessen on the ground floor that is open to patrons other than residents of the apartment house.

**V – 2.04. Accessory Buildings and Uses.**

The following accessory buildings and uses shall be permitted in the RM district:

- a. Courts;
- b. Garage, private;
- c. Gazebos, arbors;
- d. Household pets;
- e. Private swimming pools;
- f. Sheds.

**V – 2.05. Area, Height, and Bulk Requirements.**

- a. Minimum lot size in square feet: 6,000.
- b. Minimum lot dimensions in feet: width: 60; depth: 60.
- c. Maximum height of building: see side yard setback.
- d. Minimum yard setback in feet: front: 12; rear: 20; sides: every lot upon which a multiple family dwelling is erected shall be provided with a side yard on each side of such lot. Each such yard shall have a minimum width of five feet which shall be increased one one-half foot for each story by which the height of the main building exceeds two stories, and also by one-half foot for each ten feet or part thereof by which the length of the main building exceeds fifty feet in overall dimension along the side yard.
- e. Maximum lot coverage by all buildings: 80%.

**V – 2.06. Structure and Site Requirements.**

- a. All new single- and two-family dwelling units shall have a two-car garage on the same lot.
- b. Any fences to be erected on the side and rear lot lines under Article X.
- c. A dumpster shall be provided on site and appropriately screened under Article IX, Section 8 if the use houses more than two families.
- d. All unpaved areas of the lot shall be landscaped and maintained under Article IX, Section 9.
- e. The street address shall be attached to the front and back gate.

## ARTICLE VI. COMMERCIAL ZONES.

### Section 1. Multi-Use District (C2).

#### **VI – 1.01. Intent.**

The multi-use district (C2) is established to encourage a diversity of compatible land uses, which may include a mixture of residential, office, retail, recreational, office research, light manufacturing, and other miscellaneous uses within an aesthetically attractive environment conducive to the development and protection against nuisance type uses and combinations.

#### **VI – 1.02. Permitted Uses.**

*1.02.1. Residential Uses.* In the C2 District, only the following residential uses shall be permitted subject to the provisions of this Ordinance:

- a. Accessory buildings and uses as identified in this article;
- b. Condominiums;
- c. Dwellings, single-family detached;
- d. Dwellings, two family;
- e. Public owned and operated parks and outdoor recreation facilities and open space;
- f. Public services;
- g. Parochial, private, public, or charter elementary, junior high, and high schools;
- h. Religious, cultural, and fraternal activities;
- i. Congregate residences;
- j. State licensed residential facilities;
- k. Townhouses;
- l. Home occupations as defined in Section IX-11.02.

*1.02.2. Commercial Uses.* In the C2 District, only the following commercial uses shall be permitted subject to the provisions of this Ordinance:

- a. Amusement centers;
- b. Bakeries;
- c. Bars;
- d. Brewery;
- e. Brewpub;
- f. Business or financial services, unless specifically addressed as a special land use in this district or specifically prohibited by this Ordinance;
- g. Butchers that do not process live farm animals;
- h. Commercial retail sales and services, unless specifically addressed as a special land use in this district or specifically prohibited by this Ordinance;
- i. Commercial schools;
- j. Confectioneries;
- k. Delicatessens;
- l. Distillery;
- m. Grocery stores;
- n. Laundromats;
- o. Mortuary, funeral home;
- p. Motel, hotel.
- q. Museums;
- r. Open Air Business Uses;
- s. Production Filming;
- t. Professional offices, such as medical and dental clinics, accountants, and attorneys at law;
- u. Restaurants, take-out;

- v. Restaurants;
- w. Theatres.
- x. **Establishments with sidewalk cafes on public sidewalks.**

**VI – 1.03. Uses Subject to Special Land Use Approval.**

In the C2 district, only the following uses shall be permitted, subject to the requirements of the special land use process as prescribed by Article XIII:

- a. Laboratory;
- b. Light manufacturing plants;
- c. Mixed-use commercial and residential uses provided that the commercial use is a permitted use in the C2 district;
- d. Parking lots.

**VI – 1.04. Accessory Buildings and Uses.**

The following accessory buildings and uses shall be permitted in the C2 district:

- a. Garage, private;
- b. Private swimming pools;
- c. Courts;
- d. Parking lots.

**VI – 1.05. Area, Height, and Bulk Requirements.**

*1.05.1. Residential Uses.* The area, height, and bulk requirements in the R district shall apply to all residential uses in the C2 district.

*1.05.2. Commercial Uses.* The following area, height, and bulk requirements shall apply to all commercial uses in the C2 district.

- a. **All new buildings shall be constructed within one foot of the front lot line. All new buildings on corner lots shall also be constructed within one foot of the side lot line.**
- b. Minimum lot size in square feet: none, provided that the provisions of off-street loading berth requirements are complied with.
- c. Minimum lot dimensions in feet: width: none; depth: none.
- d. Maximum height of building: 4 stories; 60 feet.
- e. Minimum yard setback in feet: front: none, provided that the provisions of off-street loading berth requirements are complied with; rear: none, provided that the provisions of off-street loading berth requirements are complied with; sides: none, provided that the provisions of off-street loading berth requirements are met.
- f. Maximum lot coverage by all buildings: none.

**VI – 1.06. Structure and Site Requirements.**

The structure and site requirements listed in this section shall apply only to commercial uses:

- a. All new buildings shall be constructed within one foot of the front lot line and side lot line on corner lots.
- b. All buildings shall have not less than one pedestrian entrance on the front lot line.
- c. The street number of not less than three inches in height shall be displayed above the front door and shall be painted on the rear door of the building.
- d. Roof-mounted appliances shall be enclosed on all sides by view obscuring screening so as not to be visible from off the site from any angle. If such appliances or equipment shall be placed on the ground, the above screening requirements shall apply.

- e. All new buildings, additions, and significant exterior changes or renovations shall be found to be architecturally compatible with adjacent buildings. In making such a determination, the following shall be considered:
  - 1. Not less than ninety percent of the exterior finish material on all facades that face a street shall be limited to the following: glass, brick, cut stone, or coarsely textured stucco. E.I.F.S. may also be used on the second story and above, but shall not cover more than thirty-three percent (33%) of the façade.
  - 2. Colors shall be compatible with the majority of the adjacent buildings in the district.
  - 3. The back of the building shall be constructed of brick or painted or dyed concrete blocks.
  - 4. Blank walls shall not face a public street. Walls facing a public street shall include windows and architectural features customarily found on the front façade of a building, such as awnings, cornice work, edge detailing, or decorative materials.
  - 5. Each storefront shall have window openings equal to at least fifty percent of the façade between two feet and eight feet from the ground. The wood or metal armature of such storefronts shall be painted, bronze, or powder-coated. The glazed area of a façade above the ground floor shall not exceed thirty-five percent of the total window area.
  - 6. Walls, displays, stored merchandise, signs, or other items shall not obstruct views into the store from street side windows.
  - 7. Windows shall have a light transmission factor of eighty percent or greater.
  - 8. Windows at or above the second story shall not be covered on the exterior.
  - 9. Upper-story windows that are replaced or exposed shall retain their original size, orientation, and shape so that the configuration of the façade is not changed.
  - 10. Outdoor security fencing shall not be permitted. Roll-up security fencing, if installed, shall be located within the building. No permanent or nonretractable security fencing shall be permitted within the building.
  - 11. Metal overhead doors for interior-loading areas or loading docks shall not face a public street. Loading docks shall not be permitted on the front of a building.
  - 12. Cantilevered mansard roofs shall not be permitted.
  - 13. All HVAC equipment shall be located on the roof or within the building. If such equipment is installed on the roof, it shall be screened by a parapet wall so as not to be visible from street level. Window air conditioners shall not be permitted in the front façade windows.
- f. All new signs shall meet the following standards.
  - 1. A sign shall be integrally designed and planned with the storefront. The signs shall exemplify a particular architectural style.
  - 2. The light source for signs shall be designed as part of the sign or hidden from view, with the exception of gooseneck lighting, which shall face the façade and shall be shielded from traffic.
  - 3. Each business shall be allowed one awning sign or one projecting sign, and one window sign. The maximum square footage of total signage shall not exceed one square foot per linear foot of building frontage. Temporary signs shall also be permitted.

4. Businesses located on corner lots shall be permitted one sign for each street frontage.
- g. No new driveways, service drives, or curb cuts shall be permitted off of any public road.
- h. A screenwall shall be built along the front lot line and aligned with the adjacent building façade for all new parking lots. Screen walls shall be between two and one-half to three feet in height and made of brick, stone, or other masonry materials matching the building. Screenwalls may have openings of a maximum of twenty-five (25) feet for existing curb cuts to allow vehicular and pedestrian access.
- i. No new parking lots shall be permitted on corner lots where buildings do not exist. Where a building does exist on a corner lot, parking shall be permitted. Parking lots shall be permitted in the area of a maximum of thirty-feet off of the rear lot line and behind the main building
- j. There shall be not less than twenty (20) feet of clear space between every residential building and another main building on the same lot.

**Section 2. Central Business District (CBD).**

**VI – 2.01. Intent.**

The central business district (CBD) is established to encourage a form of development that shall achieve the physical qualities necessary to maintain and enhance the economic vitality of downtown Hamtramck, promote the preservation and restoration of historic buildings, ensure that new buildings are compatible with and enhance the downtown and reflect the City’s cultural, social, economic, and architectural heritage, and maintain uses that relate to the pedestrian. The CBD should promote unique, attractive, pedestrian and bicycle-friendly places with a streetscape that prioritizes pedestrian circulation.

**VI – 2.02. Permitted Uses.**

In the CBD, all business establishments shall be retail or service establishments that deal directly with customers. All goods produced on the premises shall be sold at retail on the premise. Only the following uses shall be permitted subject to the provisions of this Ordinance:

- a. Accessory buildings and uses as identified in this article;
- b. Amusement centers;
- c. Bakeries;
- d. Bars;
- e. Brewery;
- f. Brewpub;
- g. Business or financial services, unless specifically addressed as a special land use in this district or specifically prohibited by this Ordinance;
- h. Butchers that do not process live farm animals;
- i. Clothing stores;
- j. Coffee houses;
- k. Commercial retail sales and services, unless specifically addressed as a special land use in this district or specifically prohibited by this Ordinance;
- l. Confectioneries;
- m. Delicatessens;
- n. Distillery;
- o. Fabric stores;
- p. Florists;
- q. Fruit and vegetable stores;
- r. Grocery stores;

- s. Hardware stores;
- t. Production Filming;
- u. Restaurants;
- v. Restaurants, take-out;
- w. Specialty gift stores;
- x. Theatres.
- y. **Establishments with sidewalk cafes on public sidewalks.**

**VI – 2.03. Uses Subject to Special Land Use Approval.**

In the CBD district, only the following uses shall be permitted, subject to the requirements of the special land use process as prescribed by Article XIII:

- a. Mixed-use commercial and residential uses provided that the commercial use is a permitted use in the CBD;
- b. City-owned parking lots;
- c. Open Air Business Uses.

**VI – 2.04. Accessory Buildings and Uses.**

The following accessory buildings and uses shall be permitted in the CBD district:

- a. Courts;
- b. Parking lots.
- c. Garages, private.

**VI – 2.05. Area, Height, and Bulk Requirements.**

- a. Minimum lot size in square feet: none, provided that the provisions of off-street loading berth requirements are complied with.
- b. Minimum lot dimensions in feet: width: none; depth: none.
- c. Maximum height of building: 4 stories; 60 feet.
- d. Minimum yard setback in feet: Front: none, provided that the provisions of off-street loading berth requirements are complied with; Rear: none, provided that the provisions of off-street loading berth requirements are complied with; Sides: none, provided that the provisions of off-street loading berth requirements are met.
- e. Maximum lot coverage by all buildings: none.

**VI – 2.06. Structure and Site Requirements.**

- a. All new buildings shall be constructed within one foot of the front lot line. **All new buildings on corner lots shall also be constructed within one foot of the side lot line.**
- b. All buildings shall have not less than one pedestrian entrance on the front lot line.
- c. Upper-floor awnings shall be permitted, provided that the awning is only the width of the window, encroaches upon the front lot line no more than three feet, and is not used as a backlit sign. Awnings, which shall be straight sheds may supplement facades, except if used solely to cover entryways. Cubed or curved awnings shall not be permitted. Awnings shall be between eight and twelve feet above sidewalk grade at the lower drip edge.
- d. The street number of not less than three inches in height shall be displayed above the front door and shall be professionally painted in appearance on the rear door of the building.
- e. Roof-mounted appliances shall be enclosed on all sides by view obscuring screening so as not to be visible from off the site from any angle. If such appliances or equipment

shall be placed on the ground, the above screening requirements shall apply.

- f. All new buildings and additions or structural alterations to the footprint of existing buildings shall be found to be architecturally compatible with adjacent buildings. Any existing building which façade shall be altered after the effective date of this Ordinance or any subsequent amendment shall conform to the guidelines listed in this subsection, except that no zoning permit shall be issued until the plan commission has approved of the proposed changes to the façade and is assured of its compliance with this Ordinance. This subsection shall not apply to regular maintenance of front facades. In making such a determination, the following shall be considered:

1. **Not less than 90 percent of the exterior finish material on all facades that face a street shall be limited to glass, cut stone or coarsely textured stucco.** On the second story and above, no more than ten percent E.I.F.S. shall be permitted. Vinyl siding shall not be allowed.
2. Colors shall be compatible with the majority of the buildings in the district.
3. Blank walls shall not face a public street. Walls facing a public street shall include windows and architectural features customarily found on the front façade of a building, such as awnings, cornice work, edge detailing, or decorative materials.
4. Each storefront shall have ground level window openings not less than seventy percent of the façade between two and eight from the ground. The wood or metal armature of such storefronts shall be painted, bronze, or powder-coated. The glazed area of a façade above the ground floor shall not exceed thirty-five percent of the total window area. Window air conditioners shall not be permitted in the front façade windows.
5. Walls, displays, stored merchandise, signs, or other items shall not obstruct views into the store from street side windows.
6. Windows shall have a light transmission factor of eighty percent or greater.
7. Façade openings, other than ground floor display windows, including porches, windows, and colonnades, shall be vertical in proportion.
8. Windows at or above the second story shall not be covered **on the exterior.**
9. Upper-story windows that are replaced or exposed shall retain their original size, orientation, and shape so that the configuration of the façade is not changed.
10. Outdoor security fencing shall not be permitted. Roll-up security fencing, if installed, shall be located within the building. No permanent or nonretractable security fencing shall be permitted within the building.
11. Metal overhead doors for access to the building or interior-loading area shall not face a public street. **Overhead doors for any other use shall not have less than 60 % fenestration.** If the overhead type door is not less than 60% fenestration, then such door shall be permissible. Loading docks and service areas shall be permitted only in the rear yard.
12. Cantilevered mansard roofs shall not be permitted.
13. The back of the building shall be constructed of brick, **painted or dyed concrete block,** or the same materials used on the building's façade. Painted concrete blocks shall be permitted for the back wall.
14. **Public pedestrian entrances shall not be permitted on the side of the building, with the exception of buildings located on corner lots.**

- g. In addition to the sign standards identified in Article XI of this Ordinance, these standards shall apply and shall control if in conflict:



1. A sign shall be integrally designed and planned with the storefront. The signs shall exemplify a particular architectural style.
  2. The light source for signs shall be designed as part of the sign or hidden from view.
  3. Each business shall be allowed one awning sign or one projecting sign, and one window sign, and that maximum square footage of total signage shall not exceed one square foot per linear foot of building frontage. Temporary signs shall also be permitted.
  4. Businesses located on corner lots shall be permitted one sign for each street frontage.
- h. All empty lots in the Central Business District shall be sodded and maintained, unless such lot is specifically allowed for parking. A screenwall shall be provided along the front lot line under Section IX-7.02 of this Ordinance.
  - i. A screenwall shall be built along the front lot line and aligned with the adjacent building façade for all parking lots, vacant lots, and lots in the absence of a building façade. Screen walls shall be between two and one-half to three feet in height and made of brick, stone, or other masonry materials matching the building. Screenwalls may have openings of a maximum of twenty-four (24) feet for existing curb cuts to allow vehicular and pedestrian access.
  - j. Parking shall be permitted in the area of a maximum of thirty-feet off of the rear lot line and behind the main building. In the absence of a building façade along the side lot line a screenwall shall be constructed in accordance with Section IX-7.03 of this Ordinance.
  - k. **No new driveways, service drives, or curb cuts shall be permitted off any public road.**

## ARTICLE VII. INDUSTRIAL ZONES.

### Section 1. Industrial District (I).

#### **VII – 1.01. Intent.**

*1.01.1 General.* The industrial district (I) is intended to provide land for the more large-scale and intense manufacturing, fabricating and assembling uses. While such uses may occasionally produce external physical effects noticeable to a limited degree beyond the boundaries of the site, nevertheless, every possible effort shall be made to minimize such effects. All uses located within this district shall be so designed and operated as to observe the performance standards and regulations of use contained herein.

*1.01.2 Prohibited Uses.* The following shall be considered prohibited uses:

- a. Any business whose function would create, or have a high potential to create, an adverse or ongoing environmental impact.
- b. Any business whose function has historically demonstrated an adverse or ongoing negative environmental impact.
- c. Any business that emits, releases, or causes to be dispersed a contaminant or toxin in quantities that cause, alone or in reaction with other contaminants or toxins, either of the following, and should not be considered complete nor construed as a means of limiting the inclusion of other businesses:
  1. Injurious effects to the public health or safety, animal life, plant life or significant economic value, or property;
  2. Unreasonable interference with the comfortable enjoyment of life and property.
- d. This would include, but certainly not be limited to, the following listed types of businesses and those that perform similar purposes or functions:
  1. Incinerators;
  2. Commercial or industrial waste processing, injection, dispersion, or storage;
  3. Scrap yards;
  4. Any business having anything to do with the manufacture, processing, transport, or storage of nuclear products or waste;
  5. Recyclers of hazardous materials or of products containing proportionately large amounts of hazardous materials.

#### **VII – 1.02. Permitted Uses.**

In the I District, only the following uses shall be permitted subject to the provisions of this Ordinance, and such uses shall also comply with all applicable county, state, and federal health and pollution laws and regulations:

- a. Accessory buildings and uses as identified in this article;
- b. Automobile repair, minor;
- a. Automobile repair, major;
- b. Brewery;
- c. Brewpub;
- d. Commercial, heavy;
- e. Distillery;
- f. Industrial or research park;
- g. Laboratory;
- h. Manufacturing, heavy;
- i. Manufacturing, light;
- j. Manufacturing, medium;
- k. Open Air Business Uses;
- l. Production Filming;

- m. Public services;
- n. Public utility station;
- o. Recycling facility;
- p. Recreation, indoor;
- q. School, commercial;
- r. Warehouse, wholesale or storage.

**VII – 1.03. Uses Subject to Special Land Use Approval.**

In the I district subject to the requirements of the special land use process as prescribed by Article XIII, and such uses shall also comply with all applicable county, state, and federal health and pollution laws and regulations:

- a. Automotive self-service stations;
- b. Automotive service stations;
- c. Open storage yards of construction contractor’s equipment and supplies, building materials, sand, gravel, or lumber;
- d. Towers (e.g. cell phone, radio, transmitting).

**VII – 1.04. Area, Height, and Bulk Requirements.**

- a. Minimum lot size in square feet: none, provided that the provisions of off-street loading berth requirements are complied with.
- b. Minimum lot dimensions in feet: Width: none; Depth: none.
- c. Maximum height of building: 6 stories; 80 feet. A building or structure shall be permitted to exceed a building height of eighty feet provided that such building or structure is not less than three hundred feet from any R or RM district.
- d. Minimum yard setback: For lots less than three acres in area, the front yard shall have a minimum depth of twenty-five feet, the rear yard shall have a minimum depth of twenty feet, and there shall be two side yards, each having a width of not less than ten feet and the combined width of both side yards shall not be less than forty feet. For lots greater than three acres in area, the front yard shall have a minimum depth of forty feet, the rear yard shall have a minimum depth of twenty-five feet, and the side yards shall be not less than twenty feet each.
- e. Maximum lot coverage by all buildings: 50%.

**VII – 1.05. Accessory Buildings and Uses.**

- a. Parking lots.

**VII – 1.06. Structure and Site Requirements.**

- a. No owner or lessee, or their respective agents, shall construct or maintain a barbed wire fence partially or wholly around any area along any street, alley, sidewalk, or public right-of-way, except that upon the issuance of a proper permit, fences not less than eight feet high may have barbed wire attached to arms or brackets extending inward over such private property of the person erecting or paying for such fence, but no such barbed wire shall be placed at any point closer to grade level than eight feet. Fences may be constructed only on lot lines enclosing property with industrial uses; provided further, that when an industrial use adjoins a residential use, the arms shall project over the industrial use of the lot line only.
- b. Upon the issuance of a proper permit, fences enclosing industrial or commercial uses may be permitted to be twelve feet four inches in height, subject to the consent of not less than fifty percent of all property owners within five hundred feet from the fence.

## ARTICLE VIII. NONCONFORMING USES, BUILDINGS, AND STRUCTURES.

### Section 1. General.

#### **VIII – 1.01. Intent.**

Within the districts established by this Ordinance there may exist structures, lots, uses of land, and characteristics of uses which were lawful before this Ordinance was adopted or amended, but which would be prohibited or regulated under the term of this Ordinance or future amendments. This Ordinance intends to permit these nonconformities to continue until they are removed, but not to encourage their survival. With the knowledge that some nonconforming uses, buildings, or structures shall not disappear, the City desires and requires, in pursuit of the public interest, to distinguish between nonconforming uses, buildings, or structures which shall be eliminated as rapidly as possible and nonconforming uses, buildings, or structures which ought to be given separate treatment.

#### **VIII – 1.02. Board Authority to Permit Some Changes.**

In recognition of this fact, the Board shall have the authority to permit some expansion or changes to lawfully existing nonconforming uses based upon the standards set forth in this article.

#### **VIII – 1.03. Status of Alleged Nonconformities.**

Those alleged nonconforming uses, structures, or uses and structures in combination, which cannot be proved conclusively to have been lawfully existing before the enactment or amendment of this Ordinance, shall be declared illegal uses and shall be discontinued. In other than criminal proceedings, the owner, occupant, or user shall have the burden to show that the lot, use, or structure was lawfully established.

### Section 2. Nonconforming Uses of Land.

If, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as the land remains otherwise lawful, subject to the following provisions:

- a. No such nonconforming use shall be extended, enlarged, or increased to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
- b. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance;
- c. If such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

### Section 3. Nonconforming Structures.

If, at the effective date of adoption or amendment of this Ordinance, a lawful structure exists that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, type of structure, its location on the lot, or other restrictions of the structure, such structure may be continued so long as the structure remains otherwise lawful, subject to the following provisions:

- a. No such structure may be enlarged or altered in any way which increases its nonconformity;
- b. If such structure or nonconforming portion of the structure be destroyed by any means to an extent of more than 50% of its state equalized value at time of destruction, the structure shall not be reconstructed except in conformity with the provisions of this Ordinance;
- c. If such structure be removed for any reason or moved any distance whatsoever, the structure shall thereafter conform to the regulations for the district in which the structure is located after the structure is removed or relocated.
- d. If a nonconforming structure exists in a residential zone, the structure may remain nonconforming as long as the use is converted to a permitted use; therefore, the area, height, and bulk requirements shall be waived.

#### Section 4. Nonconforming Uses of Structures and Land.

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

- a. No existing structure devoted to a use not permitted by this Ordinance in the district in which the structure is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered, except in changing the use of the structure to a use permitted in the district in which the structure is located;
- b. Any nonconforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use and which existed when this Ordinance was adopted or amended, but no such use shall be extended to occupy any land outside such building;
- c. Any structure or structure and land in combination in or on which a nonconforming use is superseded in whole or in part by a permitted use shall thereafter conform to all regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed;
- d. When a nonconforming use of a structure or structure and premises in combination is discontinued or ceases to exist for one year or for 12 months during any three year period or otherwise sooner abandoned, the structure or structure and premises in combination shall not thereafter be used, except in conformance with the regulations of the district in which the structure is located. Structures occupied by seasonal uses shall be excepted from this provision.
- e. If nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

#### Section 5. Uses Subject to Special Land Use.

Any use for which a special land use approval is required and is permitted as provided in this Ordinance shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in the district. Such use shall remain subject to all of the provisions of the special land use section of this Ordinance for use, enlargement, change, or addition of activities.

### Section 6. Change of Non Conforming Use.

Any nonconforming use of a building, structure, or land may be changed to another nonconforming use upon written findings of the Board that the proposed use meets the following standards:

- a. There is no increase in the intensity of the use of the land, building, or structure involved;
- b. Such change in use shall have an equal or less detrimental effect or negative impact on neighboring property than the existing nonconforming use the change is replacing; and
- c. The proposed use is more appropriate to the zoning district than the existing nonconforming use and is desirable and useful in the pursuit of the public interest.

In permitting such a change in use, the Board may require appropriate conditions and safeguards in accord with the purpose and intent of this Ordinance, including the upgrading of the premises to comply as nearly as is practicable with requirements of this Ordinance. Notice of approval of the change in nonconforming use (including any conditions) shall be recorded with the Wayne County Register of Deeds before the issuance of any permit or certificate of compliance.

### Section 7. Expansion of Nonconforming Uses and Structures

The Board may permit the expansion of a nonconforming use or structure upon written findings that the following standards have been met:

- a. That the use, building, or structure was lawful when permitted or constructed;
- b. Continuance thereof would not be contrary to the public health, safety, or welfare or the spirit and intent of this Ordinance;
- c. That the use, building, or structure does not, and is not likely to, significantly depress the value of nearby properties;
- d. That no useful purpose would be served by strict application of the provisions or requirements of this Ordinance with which the use, building, or structure does not conform; and
- e. Expansion shall not have an adverse impact on adjoining property.

In permitting such an expansion of a nonconforming building or use, the Board may require appropriate conditions and safeguards in accord with the purpose and intent of this Ordinance, including upgrading the premises to comply as nearly as is practicable with the requirements of this Ordinance. Notice of approval, including any conditions attached, shall be recorded with the Wayne County Register of Deeds before the issuance of any permit or certificate of compliance.

### Section 8. Repairs and Maintenance to Nonconformities.

#### **VIII – 8.01. General.**

This section applies to all nonconforming structures and uses, except those which have been granted the right to expand by the Board as noted in the above section.

#### **VIII – 8.02. Work Permitted.**

When the owner of property upon which a nonconforming use or structure exists desires to modify or alter the site without increasing the nonconformity of the use or structure, the site shall be brought into compliance with this Ordinance to the maximum extent possible. On any structure or building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty percent (50%) of

the state equalized value of the building, but the cubic content of the building or structure, or area of the use shall not be increased from when this Ordinance was passed or amended. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or structure or nonconforming use or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Section 9. Change of Tenancy or Ownership.

There may be a change of tenancy, ownership, or management of any existing nonconforming use of land, structures, and buildings, but there shall not be a change in the nature or character of such nonconforming use, except to bring the use into greater conformity.

Section 10. Nonconforming Lots of Record.

**VIII – 10.01. Single Family Dwellings.**

In any district in which single family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. The yard setback dimensions and all other requirements not involving area or width or both shall conform to the regulations for the district in which such lot is located. Variance to yard requirements may be obtained through approval of the Board.

**VIII – 10.02. Nonconforming Lots.**

If, when this Ordinance or any subsequent amendment became effective, two or more lots, combinations of lots, and portions of lots with a continuous frontage and single ownership are of record and if all or part of the lots do not meet the requirements for lot width or area as established by this Ordinance, the lands involved shall be considered an undivided parcel for the purpose of this Ordinance, and no portion of the parcels shall be used or occupied which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirement stated in this Ordinance.

Section 11. City Acquisition of Nonconformities.

The City may acquire, by purchase, condemnation, or otherwise, private property or an interest in private property for the removal of nonconforming uses and structures, except that the property shall not be used for public housing. The Common Council may provide that the cost and expense of acquiring private property be paid from general funds, or the cost and expense or a portion thereof be assessed to a special district. The elimination of nonconforming uses and structures in a zoned district as authorized under the City and Village Zoning Act and this Ordinance is declared to be for a public use. The Common Council may institute and prosecute proceedings for the condemnation of nonconforming uses and structures under the power of eminent domain under the City Charter or under the Acquisition of Property by State Agencies and Public Corporations Act, Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Michigan Compiled Laws or any other applicable statute.

## ARTICLE IX. GENERAL PROVISIONS.

### Section 1. Existing Buildings and Uses.

#### **IX – 1.01. General.**

Lawfully established buildings and uses in existence when this Ordinance became effective shall be permitted to have their existing use or occupancy continued, except as otherwise authorized in this Ordinance or in state law, and such continued use is not dangerous to life.

#### **IX – 1.02. Additions, Alterations, or Repairs.**

Additions, alterations, or repairs shall be permitted to be made to any building or use without requiring the existing building or use to comply with the requirements of this Ordinance, and the addition, alteration, or repair conforms to that required for a new building or use.

#### **IX – 1.03. Maintenance.**

All buildings or uses, both existing and new, and all parts thereof, shall be maintained. The owner or designated agent shall be responsible for the maintenance of buildings and parcels of land. To determine compliance with this section, the code official shall be permitted to cause any structure or use to be inspected.

#### **IX – 1.04. Moved and Temporary Buildings, Structures, and Uses.**

Buildings or structures moved into or within the City shall comply with the provisions of this Ordinance for new buildings and structures. Temporary buildings, structures, and uses, such as reviewing stands and other miscellaneous structures, sheds, canopies, booths, tents, or fences, shall be permitted to be erected, and a special approval is received from the code official for a limited period of time. Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.

#### **IX – 1.05. Illegal Uses.**

Uses that were illegally established before the adoption of this Ordinance shall remain illegal and subject to the penalty provisions of this Ordinance.

### Section 2. Accessory Buildings.

#### **IX – 2.01. General.**

Accessory buildings shall occupy the same lot as the principal use or main building.

#### **IX – 2.02. Separation from Main Building.**

All accessory buildings shall be separated from the main building by no less than ten (10) feet. Attached private garages shall contain the setback requirements for the main building, and that such attached private garages are part of condominium developments.

#### **IX – 2.03. Private Garage.**

An accessory building used as a private garage shall be permitted to be located in the rear yard or side yard and that the such structure is setback not less than one foot and no more than three feet from the rear lot line, not less than ten feet from the principal building, and not less than a combined six feet on the sides with a minimum of not less than one foot on one side. Private garages shall not encroach into any recorded easements. A private garage shall be constructed with access only from a public alley. A garage shall be permitted to be constructed with access



from a public street only if an accessible public alley does not exist or if there is an existing city-authorized curb cut and an existing city-authorized driveway. (Please reference definition of “garage, private” for more details.)

**IX – 2.04. Storage Buildings.**

No storage building shall be located in the front yard. A storage shed shall be no greater than eighty square feet.

**IX – 2.05. Solar Energy Systems.**

Solar energy systems, designed to service the energy needs of the property where the structure is located shall be allowed as an accessory structure in all districts, subject to the following requirements:

- Solar energy systems shall meet the requirements of this section and all other applicable construction codes.
- The design of the solar energy system shall conform to applicable industry standards.
- Solar energy systems shall be screened per the discretion of the Community and Economic Development Department.
- Solar energy systems shall meet height and setback requirements of the zoning district in which they are located.
- Solar energy systems shall be securely anchored to the ground or a permanent structure.
- A ground-mounted solar energy system shall comply with the accessory structure restrictions contained in the zoning district where it is located.
- All exterior electrical and/or plumbing lines must be buried below the surface of the ground in compliance with current code.
- Any solar energy system not used for one year or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property by the owner of the solar energy system.
- Upon request, the plan commission may grant waivers of the setback or height requirements, provided that the waiver will not present any undue hardships on adjoining properties. The plan commission shall take into consideration the support or opposition of adjacent property owners in granting waivers of setback or height requirements.

Section 3. Allowable Projections into Yards.

**IX – 3.01. General.**

Eaves, cornices, or other similar architectural features shall be permitted to project into a required yard no more than twelve (12) inches. Chimneys shall be permitted to project no more than two (2) feet, and the width of any side yard is not reduced to less than thirty (30) inches.

**IX – 3.02. Front Yards.**

Open, unenclosed ramps, porches, platforms, or landings not covered by a roof shall be permitted to extend no more than four (4) feet into the required front yard.

**IX – 3.03. Rear Yards.**

Windows shall be permitted to project into a required rear yard no more than six (6) inches.

Section 4. Passageways.

**IX – 4.01. Residential Entrances.**

There shall be a passageway not less than four (4) feet in width leading from the public way to

the exterior entrance of each dwelling unit in every residential building. The passageway shall be increased by two (2) feet for every story over two (2).

#### **IX – 4.02. Location of Passageways.**

Passageways shall be permitted to be located in that space set aside for required yards. Passageways shall be open and unobstructed to the sky and shall be permitted to have such projections as allowed for yards, and the users of the passageway have a clear walkway to the public way. Any space between buildings or passageways that has less width than that prescribed herein shall not be further reduced.

#### **Section 5. Off-Street Parking.**

##### **IX – 5.01. General.**

When the main building is erected or experiences a change in use or when such buildings is altered, enlarged, converted, or increased in capacity, there shall be provided minimum off-street parking space with adequate provision for ingress and egress by standard-sized vehicles under this requirements of this Ordinance.

##### **IX – 5.02. Parking Space Requirements.**

- 5.02.1. *Required Number.* The off-street parking spaces required for each use permitted by this code shall not be less than that found in Appendix B, and that any fractional parking space be computed as a whole space. No parking spaces shall be required for any uses in the Central Business District.
- 5.02.2. *Combination of Uses.* If there is a combination of uses on a lot, the required number of parking spaces shall be the sum of that found for each use.
- 5.02.3. *Location of Lot.* The parking spaces required by this Ordinance shall be provided on the same lot as the use or where the exclusive use of such is provided on another lot nor more than five hundred (500) feet radially from the subject lot within the same or less-restrictive zoning district.
- 5.02.4. *Sharing of Parking.* If, in the opinion of the code official, sufficient evidence is provided by a property owner that different uses operating in different structures at different times have a written agreement to allow for the sharing of parking spaces that shall meet the parking space requirements and location of lot as identified in this Ordinance, the code official may consider the required number of parking spaces to have been met. Such agreement shall be a condition of any certificate of compliance and shall be reviewed annually by the code official. If such agreement at any time is no longer in effect, the code official shall have the authority to revoke the certificate of compliance.
- 5.02.5. *Bicycle facilities:* All developments in the Commercial District may be designed to accommodate bicycle travel, including bike racks. Per the discretion of the Community & Economic Development Director, parking structures and parking lots may be required to provide sufficient bike racks based on a minimum of one bike for every ten automobiles or one bike for every 3,000 square feet of building floor area, whichever is greater. The use of enclosed bicycle storage and/or shared facilities is encouraged.

##### **IX – 5.03. Parking Stall Dimensions.**

- 5.03.1. *Width.* A minimum width of nine feet shall be provided for each parking stall, with the following exceptions:
  - a. Compact parking stalls shall be permitted to be eight feet wide.
  - b. Parallel parking stalls shall be permitted to be eight feet wide.
  - c. The width of a parking stall shall be increased ten inches for obstructions located on

either side of the stall within fourteen feet of the access aisle.

- 5.03.2. *Length.* A minimum length of twenty feet shall be provided for each parking stall, with the following exceptions:
- a. Compact parking stalls shall be permitted to be eighteen feet in length.
  - b. Parallel parking stalls shall be a minimum of twenty-two feet in length.

#### **IX – 5.04. Design of Parking Facilities.**

- 5.04.1. *Driveway Width.* Every parking facility shall be provided with one or more access driveways, the width of which shall be the following:
- a. Private driveways shall be not less than nine feet and no more than ten feet wide.
  - b. Commercial driveways shall be not less than twelve feet and no more than fifteen feet wide for one-way traffic and not less than twenty-four feet and no more than twenty-seven feet wide for two-way traffic.
- 5.04.2. *Driveway and Ramp Slopes.* The maximum slope of any driveway or ramp shall not exceed twenty percent. Transition slopes in driveways and ramps shall be provided under the standards set by the code official and the City’s engineering firm.
- 5.04.3. *Stall Accessibility.* Each required parking stall shall be individually and easily accessible. No automobile shall be required to back onto any public street or sidewalk to leave any parking stall when such stall serves more than two dwelling units or other than residential uses. All portions of a public lot or garage shall be accessible to other portions thereof without requiring the use of any public street.
- 5.04.4. *Compact-to-Standard Stall Ratio.* The maximum ratio of compact stalls to standard stalls in any parking area shall not exceed one (1) to two (2).
- 5.04.5. *Screening.* A two-foot high buffer at the lot lines bordering a public way except an alley shall be provided for all parking areas of five or more parking spaces. The buffer shall be constructed of the same material used on the front facade of the main building or of shrubs.
- 5.04.6. *Striping.* All parking stalls, except those inside a private garage or parking area for the exclusive use of a dwelling unit, shall be clearly striped.
- 5.04.7. *Lighting.* All parking areas shall be illuminated. All lights illuminating a parking area shall be designed and located so as to reflect away from any street and adjacent property.

#### **IX – 5.05. Use of Parking Facilities.**

- 5.05.1. *Storage.* No motor vehicles or trailers shall be stored on any lot if the motor vehicle or trailer is not properly registered with the State of Michigan or does not display its proper current license plate as identified by its vehicle registration, unless such a motor vehicle or trailer is stored within a private garage.
- 5.05.2. *Repair.* Except for emergency conditions, no repair of any motor vehicle shall be conducted outside of a private garage. Repairs of motor vehicles in private garages in residential zones shall be permitted only if the owner of the motor vehicle is repairing a motor vehicle of which a title is properly registered in his name, at the address that is shown on the title, and conducted by a person whose driver’s license has the same address where the repairs are being performed and where the motor vehicle is registered.

#### **Section 6. Loading Spaces.**

##### **IX – 6.01. General.**

Loading spaces shall be provided on the same lot for every building in the I district. No loading space shall be required if prevented by an existing lawful building. The code official shall be authorized to waive this requirement on unusual lots.

### **IX – 6.02. Size.**

Each loading space shall have a clear height of fourteen (14) feet and shall be directly accessible through a usable door not less than three (3) feet in width and six (6) feet, eight (8) inches in height. The minimum area of a loading space shall be four hundred (400) square feet and the minimum dimensions shall be twenty (20) feet long and ten (10) feet deep.

## Section 7. General Screening and Lighting Requirements.

### **IX – 7.01. Lighting.**

All private lights used for the illumination of dwellings or business establishments or for the illumination of business buildings or areas surrounding them, or the illumination or display of merchandise or products of business establishments shall be completely shielded from the view of vehicular traffic using the road or roads abutting such business property. Lighting which is designed to illuminate the premises shall be installed in a manner which shall not cast direct illumination on adjacent properties.

### **IX – 7.02. Screenwalls.**

Unless otherwise required in this Ordinance, all screenwalls shall be two and one-half to three feet in height and made of brick, stone, or other masonry materials matching the adjacent buildings as nearly as possible. Screenwalls may have openings no larger than the maximum opening required for pedestrian or vehicular access.

### **IX – 7.03. Side and Rear Yard Screening.**

Except as otherwise required in this Ordinance, all premises used for business, commercial, or industrial purposes shall be screened from abutting residential zones. Screening shall be any of the following and shall apply to side yard and rear yards:

- a. A natural buffer planted with evergreens or shrubbery which maintains their density and screening effect throughout the calendar year, not less than four (4) feet in height when planted, and maintained in a neat and attractive manner commensurate with the adjoining residential district.
- b. An artificial wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants of adjoining premises, not less than five (5) feet in height and maintained in a neat and attractive manner, commensurate with the adjoining residential district.
- c. For side yard screening, no such wall or fence shall terminate closer than twenty (20) feet from any adjoining street right-of-way (or rear alley into which a lot has vehicular access/egress), to provide safe visual sight distances.

### **IX – 7.04. Right-of-Way.**

It is unlawful to construct any private fence or barrier within a public right-of-way.

## Section 8. Dumpsters.

Outdoor trash containers or dumpsters shall comply with the following requirements:

- a. Adequate vehicular access shall be provided to such containers for truck pick-up either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from main buildings. The placement of the dumpster shall be subject to site plan review.
- b. A solid ornamental screening wall or fence shall be provided around all sides of such containers. An access gate shall also be provided and be of such height as to completely screen the containers. The maximum height of walls, fences, and gates shall be six feet.

- c. The container or containers, the screening walls or fences, and gate shall be maintained in a neat and orderly manner, free from loose rubbish, waste paper, and other debris.

Section 9. Landscaping Requirements.

**IX – 9.01. General.**

Landscaping is required for all new buildings and additions over 500 square feet. The landscaping shall be completed within 8 months from the date of the occupancy of the building.

**IX – 9.02. Front Yards.**

Front yards required by this Ordinance shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls, and structures. No front yard shall be entirely covered in concrete or a concrete-like material, unless otherwise permitted by this Ordinance.

**IX – 9.03. Street-Side Side Yards.**

All side yards flanking a public street shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls, and structures. No side yard flanking a public street shall be entirely covered in concrete or a concrete-like material.

**IX – 9.04. Rear Yards.**

All rear yards shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls, and structures. No rear yard shall be entirely covered in concrete or a concrete-like material.

**IX – 9.05. Maintenance.**

All live landscaping required by this Ordinance shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized, and irrigated on a regular basis. All animal droppings shall be cleaned up and properly disposed of immediately upon discovery.

Section 10. Grading and Excavation Regulations.

**IX – 10.01. General.**

This section is intended to provide the City with fair and equitable grading practices.

**IX – 10.02. Grading Responsibilities.**

*10.02.1. Design Standards.* The grading design standards required herein shall be those found in nationally recognized standards.

*10.02.2. Protection of Utilities.* Public utilities or services shall be protected from damage due to grading or excavation operations.

*10.02.3. Protection of Adjacent Property.* Adjacent properties shall be protected from damage due to grading operations. A person shall not excavate on land sufficiently close to any property line to endanger any adjoining public street, sidewalk, alley, or other public or private property, without supporting and protecting such property from any damage that might result.

*10.02.4. Inspection Notice.* The code official shall be notified not less than one full business day before the start of work.

*10.02.5. Temporary Erosion Control.* Precautionary measures necessary to protect adjacent public or private property from damage by water erosion, flooding, or deposition of mud or debris originating from the site shall be put in effect. Precautionary measures shall include provisions of properly designed sediment control facilities so that downstream

properties are not affected by upstream erosion.

- 10.02.6. *Traffic Control and Protection of Streets.* Flaggers, signs, barricades, and other safety devices to ensure adequate safety when working on or near public streets shall be provided.
- 10.02.7. *Hazard from Existing Grading.* When any existing excavation, embankment, or fill has become a hazard to life or limb, endangers structures, or adversely affects the safety, use, or stability of a public way, such excavation, embankment, or fill shall be eliminated.
- 10.02.8. *Tracking of Dirt into Public Streets.* Adequate cleaning of equipment to prevent the tracking of dirt and debris onto public streets shall be provided. The developer shall clean any dirt or debris tracked onto a public street within twenty-four hours upon discovery.
- 10.02.9. *Revegetation.* The loss of trees, ground cover, and topsoil shall be minimized on any grading project. In addition to mechanical methods of erosion control, graded areas shall be protected to the extent practical from damage by erosion by planting grass or ground to cover plants or trees. Such plantings shall provide for rapid, short-term coverage of the slopes as well as long-term permanent coverage. A plan by a registered design professional shall be provided when required by the code official.
- 10.02.10. *Protection of Trees.* During development, building, renovating, or razing operations, the developer shall erect and maintain suitable protective barriers around all trees specified to be maintained so as to prevent damage to the trees and shall not allow storage of equipment, materials, debris, or fill to be placed in this area except as may be necessary for no more than thirty (30) days, if no other storage space is elsewhere available, as prescribed in demolition specifications.

## Section 11. Home Occupations.

### **IX – 11.01. Conditions.**

Home occupations as identified in this section shall be permitted in all residential zones when the following conditions are met:

- a. A certificate of compliance and general business license shall have been issued by the appropriate licensing agents of the City;
- b. Such use is wholly confined within the dwelling unit (main building);
- c. The home occupation is not offensive and does not change the character of the principal structure;
- d. Such use is conducted only by permanent residents of the dwelling;
- e. Such occupation shall not require internal or external alterations or construction features;
- f. No equipment or process shall be used in such home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises if the occupation is conducted in a single-family dwelling. If the occupation is conducted in other than a single-family dwelling, such nuisances shall not be detectable outside the dwelling unit. 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 cause fluctuations in the line voltage off the premises;
- g. Such occupation is clearly incidental to the residential use to the extent that not more than 25% of the floor area of the main building shall be occupied by such occupation, including the storage of inventory and supplies;
- h. There shall be no exterior display or storage of goods on the premises, including in garages or accessory structures unless a special land use permit is obtained;

- i. Home occupations involving beauty shops or barbershops shall require a special land use permit;
- j. No sign of any nature shall be displayed;
- k. Such use does not generate traffic or a need for parking beyond that required for the dwelling unit, nor shall such use create any external effect not normally associated with a residential use, or otherwise adversely effect the pedestrian or vehicular circulation of the area;
- l. Sales and services to patrons shall be arranged by appointment and scheduled so that not more than one patron with a vehicle is on the premises at the same time

**IX – 11.02. Allowable Home Occupations.**

The following home occupations shall be allowed:

- a. Accountant;
- b. Artist;
- c. Author/free-lance journalist;
- d. Caterer/cook;
- e. Collector/hobbyist;
- f. Consultant;
- g. Instructor of a craft or fine art (with no more than four pupils at one time);
- h. Musician;
- i. Office;
- j. Photographer;
- k. Sales representative;
- l. Tailor/dressmaker/seamstress;
- m. Technology technician.

**IX – 11.03. Home Occupations Not Identified.**

The code official shall have the authority, upon application, to determine if a home occupation not identified in this section shall be permitted. An applicant who has been denied a certificate of compliance because the code official does not believe that the occupation is permitted by this Ordinance shall have the right to file an appeal of the code official’s decision with the Board, whose decision shall be final.

Section 12. Adult Uses.

**IX – 12.01. Intent.**

The intention of the Common Council is to outlaw any form of adult uses in the City.

**IX – 12.02. Definitions.**

The following words and terms shall, for the purposes of this Ordinance, have the meanings shown herein:

**ADULT BOOKSTORE OR VIDEO STORE.** An establishment having, as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals, video cassettes, films and other such visual media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined in this section, or an establishment with a significant segment or section devoted to the sale or display of such material, unless such area is physically separated from the remainder of such establishment and which is accessible to adults only.

**ADULT ENTERTAINMENT USE.** Any adult bookstore or video store, adult mini-motion picture theater, adult motion picture theater, cabaret, massage parlor, adult personal service businesses, adult novelty businesses or any combination of such uses.

**ADULT MINI-MOTION PICTURE THEATER.** A building or any part thereof with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined in this section, for observation by patrons therein.

**ADULT MOTION PICTURE THEATER.** A building or any part thereof or a drive-in theater with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in this section, for observation by patrons therein.

**ADULT NOVELTY BUSINESSES.** A business that has as a principal activity the sale of devices of simulated human genitals or devices designed for sexual stimulation.

**ADULT PERSONAL SERVICE BUSINESSES.** A business having as a principal activity the provision of personal services to another person on an individual basis in a closed room while nude or partially nude. It includes but is not limited to the following activities and services: massage parlors, erotic rubs, modeling studios, body painting studios, wrestling studios, and individual theatrical performances.

**SPECIFIED ANATOMICAL AREAS.**

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

**SPECIFIED SEXUAL ACTIVITIES.**

- a. Human genitals in a state of sexual stimulation or arousal;
- b. Acts of human masturbation, sexual intercourse or sodomy; and
- c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

**IX – 12.03. Adult Uses Prohibited.**

No adult use as defined in this section shall be permitted in the City.

Section 13. Medical Marihuana. (Enacted 12-13-11)

**IX – 13.01. Purposes and Intent**

1. To implement the provisions of the Michigan Medical Marihuana Act, M.C.L. §333.26421 et seq and amend Ordinance 2011-4.
2. To help ensure that qualifying patients can safely, practically and without disturbance to other residents obtain and use marihuana for medical purposes where that medical use has been approved by a physician in accordance with Michigan law.
3. To help ensure that qualifying patients and their primary caregivers who legally obtain or legally cultivate marihuana solely for the qualifying patient's medical treatment are not subject to arrest, criminal prosecution, or penalty in any manner.



4. To protect citizens from the adverse impacts of unregulated medical marihuana cultivation, manufacture, preparation, distribution, storage and use practices.
5. To establish a new section in the City of Hamtramck Code of Ordinances pertaining to the permitted cultivation, distribution and use of medical marihuana in the City of Hamtramck consistent with state law.

Nothing in this ordinance purports to permit activities that are otherwise illegal under state or local law. Nothing in this ordinance restricts rights of patients or caregivers to grow in any place where city building codes or ordinances are not violated. The right of patients and caregivers to grow and use Medical Marihuana in their own residences shall not be curtailed in any manner except as set forth herein.

### **IX – 13.02. Review and Approval**

The City of Hamtramck Zoning Ordinance is hereby amended to add Section 13 to Article IX as follows:

Medical Marihuana Collectives and Compassion Clubs as defined herein shall be allowed in Commercial and Industrial zoning districts, subject to review and approval as set forth in this section and Title XI, Chapter 21 of the Hamtramck City Code. The application fee for required permits shall be set annually by City Council resolution and shall be reasonably calculated to reimburse the city for its anticipated expenses associated with processing the application for permits provided for herein.

### **IX – 13.03. Definitions**

- (a) "Debilitating medical condition" means 1 or more of the following:
  - (1) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail patella, or the treatment of these conditions.
  - (2) A chronic or debilitating disease or medical condition or its treatment that produces 1 or more of the following: cachexia or wasting syndrome; severe and chronic pain; severe nausea; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis.
  - (3) Any other medical condition or its treatment approved by the Department, as provided for in section 5(a) of the Michigan Medical Marihuana Act, MCL 333.26425(a).
- (b) "Department" means the state of Michigan Department of Community Health or any successor entity reorganized or established from time to time by the state of Michigan.
- (c) "Enclosed, locked facility" means a closet, room, or other enclosed area equipped with locks or other security devices that restricts access to only a registered primary caregiver or registered qualifying patient as defined under this ordinance.
- (d) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
- (e) "Medical Marihuana Collective" or "Collective" means any retail store, store front, office building, or other structure that dispenses, facilitates the medical use of, or provides, in any manner, medical marihuana, any product containing medical marihuana, or paraphernalia reasonably necessary for the medical use of medical marihuana. A "Collective" as used in this ordinance shall also include those non-residential buildings of any sort that are approved for the cultivation or growing of medical marihuana under this ordinance. A collective shall not engage in any sale of medical marihuana or facilitate

- the medical use of medical marihuana other than as provided for under state law.
- (f) "Medical Marihuana Club" (also known as Compassion Club) means a facility that offers patients and caregivers the opportunity to connect with others for the purpose of providing referral services, education, community outreach, and medical use of medical marihuana in a completely enclosed building allowed under the Michigan Medical Marihuana Act of 2008. This facility shall not be used for storage, dispensing, sale, growth, cultivation, processing, or packaging of medical marihuana at any time and shall not share a common entrance with any Collective which shall operate independently from Compassion Clubs.
  - (g) "Medical use" means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition: "acquisition" herein implies the right to provide compensation from Registered Qualifying Patients solely to their Primary Caregivers solely in accordance with state law.
  - (h) "Physician" means an individual licensed as a physician under Part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or an osteopathic physician under Part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.
  - (i) "Primary caregiver" means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has never been convicted of a felony.
  - (j) "Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.
  - (k) "Registered" shall have that meaning ascribed to it under the Michigan Medical Marihuana Act and shall include any person who applies for and receives certification from the state of Michigan as either a Primary Caregiver or a Qualifying Patient and who possesses a valid registry identification card.
  - (l) "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient or registered primary caregiver.
  - (m) "Sale" as it relates to Medical Marihuana shall be given that meaning assigned to it by state law.
  - (m) "Usable marihuana" means the dried leaves and flowers of the marihuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant.
  - (n) "Visiting qualifying patient" means a patient who is not a resident of this state or who has been a resident of this state for less than 30 days.
  - (o) "Written certification" means a document signed by a physician, stating the patient's debilitating medical condition and stating that, in the physician's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

#### **IX – 13.04. Conditions and Standards:**

- (a) Medical marihuana collectives and compassion clubs shall not be allowed as home occupations; however, growth, cultivation, processing and use of medical marihuana in private homes is explicitly permitted under the following conditions provided that the medical use does not otherwise create a public nuisance:

1. Patients or their caregivers may grow in the patients home as long as the home has adequate electrical service to safely operate any electrical equipment necessary for the growing process and, where required by the City electrical code, the homeowner obtains a permit and city inspection whenever electrical upgrades are necessary to safely operate any equipment needed to grow and/or cultivate medical marihuana. Violations of this subsection will not invalidate otherwise legal growing/cultivation operations, but may subject violators to penalties set forth in the applicable electric or building codes;
  2. In addition to those standards and conditions imposed under 4(b) caregivers may grow for their patients as a home business with the following restrictions:
    - a. A certificate of compliance and general business license shall have been issued by the appropriate licensing agents of the City;
    - b. Such use is wholly confined to an enclosed locked facility within the dwelling unit (main building);
    - c. The home occupation does not change the architectural character of the principal structure;
    - d. Such use is conducted only by permanent residents of the dwelling; or with the written notarized permission of the property owner;
    - e. Such occupation shall not require internal or external alterations or construction features;
    - f. No equipment or process shall be used in such home occupation that creates noise, vibration, glare, fumes, odors, electrical interference, or other nuisances detectable to the normal senses off the premises if the occupation is conducted in a single-family dwelling. If the occupation is conducted in other than a single-family dwelling, such nuisances shall not be detectable outside the dwelling unit. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any electronic devices off the premises or cause fluctuations in the line voltage off the premises;
    - g. Such occupation is clearly incidental to the residential use to the extent that not more than 25% of the floor area of the main building shall be occupied by such occupation, including the storage of inventory and supplies;
    - h. There shall be no exterior display or storage of goods on the premises, including in garages or accessory structures unless a special land use permit is obtained;
    - i. No sign of any nature shall be displayed;
    - j. Such use does not generate traffic or a need for parking beyond that required for the dwelling unit, nor shall such use create any external effect not normally associated with a residential use, or otherwise adversely affect the pedestrian or vehicular circulation of the area.
- (b) No medical marihuana collective or compassion club shall be located within 500 feet of any school, within 500 feet of any church or other place of religious worship, or within 500 feet of another collective or compassion club and, further, must be sufficiently buffered from any residences as to prevent adverse impact to these residences.
- (c) The maximum size of a medical marihuana collective or compassion club in a Commercial District shall be 6,000 square feet;

- (d) For all collectives located in a Commercial District, at least ten (10%) percent of the total area of the building shall be an area dedicated to allow the Qualifying Patients, or their primary Caregivers, to pick up authorized packages of medical marihuana. The cultivation or processing of medical marihuana shall be prohibited in this dedicated pick-up area. This area shall be located at the front (street side) of the building and reasonable steps shall be taken to prevent the spread of contaminants from the pick-up area of the facility to the cultivation and processing area of the facility.
- (e) There shall be no area for the retail sale of medical marihuana in collectives located in Industrial Districts unless;
- i. public access to any area used for growing, processing or storing marihuana is restricted in accordance with security protocols to be established and published by the Hamtramck Police Department and available for inspection and copying with the city clerk which shall contain rules of access to these areas consistent with state law; and
  - ii. the operator(s) of the collective take reasonable steps to prevent the spread of contaminants from the pick-up area of the facility to the area dedicated to growth, production, cultivation and processing of medical marihuana.
- (f) All marihuana plants cultivated or processed at any medical marihuana collective shall be grown or processed indoors in an area that this not accessible to the public. The growing and/or processing area shall remain locked at all times. Said area shall be clearly labeled with signs notifying that access to the area is limited. Only registered Qualifying Patients and their Primary Caregivers shall be allowed access to the plant growing areas, but only in accordance with security protocols to be established and published by the Hamtramck Police Department and available for inspection and copying with the city clerk. Outdoor cultivation or processing of medical marihuana plants is strictly prohibited.
- (g) Each collective and compassion club shall comply with security protocols to be established and published by the Hamtramck Police Department and available for inspection and copying with the city clerk. The security protocols provided for in this ordinance shall require, at a minimum, that operators of retail and industrial facilities take appropriate security measures to protect the health and safety of workers, patrons and the general public whether they are on premises or in proximity to the facility, including but not necessarily limited to staff training, control of access, proper indoor and exterior lighting, alarm system, video closed circuit recording systems and a safe. All exterior doors to any facility, whatever its lawful purpose hereunder, shall be made of steel and have automatic locking mechanisms; in addition, doors which provide access to growing areas shall be a security door constructed of steel and have automatic locking mechanisms. Windows shall have fixed placements and be constructed of materials to be specified in regulations promulgated by the Hamtramck Police Department as part of the security and safety protocols required under this sub-section. The City Council for the City of Hamtramck shall change, amend or approve by resolution these security protocols which shall not conflict with the minimum requirements set forth herein before they are implemented and at least once per year thereafter to insure that they are clearly written solely for the purpose of protecting public safety and do not unduly restrict the legal activities permitted under this ordinance and state law. If the Hamtramck Police

Department fails to provide these additional security protocols for Council approval within 90 days of the effective date of this ordinance, Council shall take the necessary steps to promulgate, by resolution, its own additional security protocols in conformity with the requirements set forth herein;

- (h) Adequate, legible signs shall be posted advising clientele of collectives and compassion clubs that:
  - 1. Consumption of medical marihuana inside or on the property where a collective is located is strictly prohibited;
  - 2. Patients under the age of eighteen (18) are not allowed in the collective or compassion club except in the presence of his/her parent, guardian or licensed attending physician.
- (i) Only operators and their employees, patients, Primary Caregivers, and parents or guardians of patients under 18 years of age may be permitted to enter a medical Marihuana Collective for lawful purposes. All entrances to the facility shall remain locked at all times and individuals may be allowed entry onto the premises only after presenting proof of their legal right to be there.
- (j) Collectives shall maintain records of the registry identification numbers of all qualifying patients and primary caregivers who enter the facility to utilize its services and the dates of their visits. Such records shall be made available for inspection by the Hamtramck Police Department upon demand so that, acting under authority of MCL 333.26426(h)(3), the Department may make appropriate application to the Michigan Department of Community Health to insure that the collective is dispensing medical marihuana to individuals legally-entitled to receive it.
- (k) No retail sales of drug paraphernalia as defined elsewhere in the Hamtramck City Code shall be permitted at collectives and compassion clubs except to Patients and or their Primary Caregivers for medical use only.
- (l) Hours of operation shall be limited to Monday thru Saturday, 10:00 AM to 8:00 PM; Sunday, Noon to 7:00 PM. City Council shall periodically review this subsection but may amend it no more than one time in any consecutive twelve month period.
- (m) The City shall have the right to impose additional operating procedures and measures as may be imposed by the City Manager or City Council in order to insure that the operation of the Collective is consistent with protecting the health, safety, and welfare of the community, qualified patients, and caregivers.
- (n) No collective shall be permitted to purchase marihuana for sale anywhere on the property where the collective is located.
- (o) Signs displayed on the exterior of the property shall conform to existing regulations; No imagery of any part of or whole marihuana plant is allowed.

- (p) The location shall be monitored at all times by closed circuit video recording system for security purposes. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of any individual committing a crime anywhere on the site, and with off-site storage of recordings kept for at least 30 days.
- (q) The location shall have a centrally-monitored alarm system; written security policy and staff security training shall include measures to deter and prevent unauthorized entrance into any facility or any theft, and shall also include safety and security procedures for personal safety and other crime prevention techniques.
- (r) Interior building lighting, exterior building lighting and parking area lighting must be in compliance with applicable regulations, and must be of sufficient foot-candles and color rendition, so as to allow the ready identification of any individual committing a crime on site at a distance of no less than forty feet (a distance that should allow a person reasonable reaction time upon recognition of a viable threat);
- (s) Windows and roof hatches shall be secured so as to prevent unauthorized entry, and be equipped with latches that may be released quickly from the inside to allow exit in the event of emergency:
  - 1. Absolutely no cultivated marihuana or dried marihuana product may be visible from the building exterior;
  - 2. Any beverage or edible produced or provided at the collective which contains marihuana shall be so identified, as part of the packaging, with a prominent and clearly legible warning advising that the product contains marihuana and that it is to be consumed only with a physician's recommendation; Any such beverage or edible product shall state the weight or marihuana, oil, extract, tincture or other preparation, and shall be measured only by that stated weight for purposes of compliance with Michigan law.
- (t) At any given time, no collective may possess more marihuana or marihuana plants than would reasonably meet the immediate and future needs of its registered patient members.
- (u) No dried medical marihuana shall be stored in structures without at least four walls and a roof, or stored in an unlocked vault or safe, or other unsecured storage structure; nor shall any dried medical marihuana be stored in a safe or vault that is not bolted to the floor or structure of the facility;
- (v) Medical marihuana may be consumed on-site at a compassion club (but not a collective) only as follows:
  - 1. The smoking or vaporizing of medical marihuana shall be allowed provided that appropriate seating, restrooms, drinking water, ventilation, air purification system, and patient supervision are provided in a room or enclosed area separate from other collective service areas.
  - 2. The maximum occupancy of the separate room or enclosed area shall meet local occupancy requirements.

3. The medical marihuana compassion club shall use an activated charcoal filter, or other device sufficient to eliminate all odors associated with medical marihuana use from adjoining businesses and public walkways. The fan used to move air through the filter shall have the capacity sufficient to ventilate the square footage of the separate room or enclosed area in which medical marihuana use is permitted.
- (w) Medical marihuana patient collectives and compassion clubs must verify that each member has a valid and unexpired letter of recommendation for the use of medical marihuana written by a physician licensed to practice medicine in Michigan. The collective may accept an unexpired Michigan medical marihuana identification card as proof of the member's status as a legal patient, in lieu of personal contact with the recommending physician or his or her agent. Medical Marihuana Patient Collectives may also service visiting qualifying patients as provided by law.
  - (x) Medical marihuana collectives and compassion clubs shall not directly or, through their operators, employees, managers, caregivers, or caregivers' registered patients, members or agents, indirectly sell, barter, give away or furnish medical marihuana to anyone who is not a qualifying patient or primary caregiver, registered as a member of the collective, and entitled to possess marihuana under Michigan law. All collective operators, employees, managers, members, or agents shall be qualifying patients of a designated primary caregiver who lawfully performs his or her services at the location.
  - (y) Medical marihuana patient collectives must have at least one security guard on duty during operating hours.
  - (z) The total number of plants cultivated may not exceed the amount allowed by law. Copies of qualifying patient medical authorizations or medical marihuana cards must be available on site justifying the total number of plants grown.
  - (aa) A functional portion of each facility shall be wheelchair accessible and other reasonable disability accommodations shall be provided as necessary.
  - (bb) All necessary building, electrical, plumbing and mechanical permits shall be obtained as required by city code.
  - (cc) Each collective shall obtain site plan approval from the Building Department.
  - (dd) Each collective shall obtain and maintain business licenses required by the Hamtramck City Council, which shall be prominently displayed inside the collective.
  - (ee) Any growing location is required to shield any light emitting from the inside of a facility so it is not visible from the exterior of the facility.
  - (ff) Illegal use or storage of any pesticides or chemicals is prohibited. Organic farming methods are to be encouraged and community composting shall be allowed. Other legal herbs may be sold or consumed on the premises unless otherwise prohibited. All medical marihuana handled by a Patient Collective must be grown in Michigan.

(gg) Each collective shall be open for inspection upon reasonable advance request of at least 24 hours from any official including building, planning, the Fire Department, the Police Department, the Mayor, the City Manager or any member of the City Council.

(hh) No tobacco may be smoked by any person on the premises of any Patient Collective, or within 25 feet of the entry door during business hours.

### **IX – 13.05 Civil Forfeiture**

Any marijuana or drug paraphernalia used, sold or possessed with intent to sell in violation of this Ordinance shall be seized and forfeited to the City of Hamtramck along with any proceeds received from any such illegal sales.

### **IX – 13.06 Criminal Penalty**

Any illegal use, possession, purchase, sale or distribution of marijuana without the proper authorization required by this ordinance and state law shall be punishable in accordance with § 10.999 of the Hamtramck Code of Ordinances.

### **IX \_ 13.07 Police Department Procedures and Training**

1. Within six months of the date that this chapter becomes effective, the training materials, handbooks, and printed procedures of the Police Department shall be updated to reflect its provisions. These updated materials shall be made available to police officers in the regular course of their training and service.
2. Medical marijuana related activities shall be the lowest possible priority of the Police Department.
3. Qualified patients, their primary caregivers, and medical marijuana collectives and compassion clubs who come into contact with law enforcement will not be subject to any civil or criminal penalty including forfeiture, not cited nor arrested, and dried cannabis or cannabis plants in their possession will not be seized if they are in compliance with the provisions of this chapter.
4. Qualified patients, their primary caregivers, and medical marijuana collectives and compassion clubs who come into contact with law enforcement and cannot establish or demonstrate their status as a qualified patient, primary caregiver, or medical marijuana collective or as compassion club, but are otherwise in compliance with the provisions of this chapter, will not be cited or arrested and usable marijuana or marijuana plants in their possession will not be seized if (1) based on the activity and circumstances, the officer determines that there is no evidence of criminal activity; (2) the claim to be a qualified patient, primary caregiver, or medical marijuana patient collective is credible; and (3) proof of status as a qualified patient, primary caregiver, or medical marijuana patient collective can be provided to the Police Department within three business days of the date of contact with law enforcement.



## ARTICLE X. FENCES.

### Section 1. General.

#### **X – 1.01. Scope.**

The respective owners of all lots in the City shall construct and maintain fences between their own and adjoining lots owned by other persons.

#### **X – 1.02. Responsibility.**

Fences shall be between four feet four inches and six feet four inches high. Each owner shall construct only one fence along the side lot line between the rear property and front building line at his own expense. If the parcel runs North and South, the owner is responsible for the West fence line. If the parcel runs East and West, the owner is responsible for the North fence line. For odd shaped parcels, the code official shall determine the responsibility for fence construction and maintenance. Fences enclosing a property shall provide adequate access for fire fighting purposes, with not less than one access at the front lot line and not less than one access at the rear lot line, except that access can be provided on the side lot line for corner lots.

#### **X – 1.03. Mixed-Use Adjoining Properties.**

In the absence of a building façade within five (5) feet of the lot line, owners of properties with nonresidential uses abutting properties with residential uses shall erect and maintain a privacy fence of six feet four inches along such property lines. If the nonresidential use is an industrial use, an eight foot four inch privacy fence may be permitted by the code official.

#### **X – 1.04. Bodies of Water.**

Any swimming pool, pond, or other artificially installed body of water, all of which may contain not less than twelve inches of water in depth at any point, shall be enclosed by a fence not less than four feet four inches in height. Gates shall be of a self-closing and latching type, with the latch on the inside of the gate so that the latch is not readily accessible for children to open. Gates shall be capable of being securely locked. If the entire premises is enclosed, then the code official may waive this provision upon proper application and approval.

#### **X – 1.05. Maintenance, Repair, and Removal.**

All fences shall be maintained in a neat and safe condition. Fences erected between residential uses and other uses shall be maintained in a neat and safe condition at the expense of the owner of the other use under the terms of any waiver granted under to this Ordinance. Fences shall be kept free of weeds, trees, and other nuisance vegetation. The respective owners of all lots shall also be responsible for the care, repair, and upkeep of all fences contiguous to or bordering upon streets, alleys, and other public areas. Fences erected on or between residential uses shall be maintained in a neat and safe condition at the expense of the owner legally responsible for the fence. If ownership and responsibility of the fence, in the opinion of the code official, is not reasonably and readily ascertainable, the code official shall have the authority to require that any or all property owners abutting the fence maintain or repair the fence. This Ordinance shall not require the City to secure a survey to determine responsibility or property ownership. In the absence of any other agreement, the fence owner shall, if necessary, be allowed by the adjoining property owner access to that fence not less than two days twice a year for the purpose of periodic maintenance work, and at any time and as long as required for emergency repair work. In the case of a disagreement between the two property owners, the code official shall make a

determination. If a fence falls into such disrepair that the fence becomes a threat to public health, safety, or welfare, the City shall have the authority to replace or repair the fence and the cost of such replacement or repair shall be that of the property owner who is legally responsible for maintaining the fence. The City shall have the authority to place the cost of such replacement or repair on the tax rolls.

**X – 1.06. Nonconforming Fences.**

Any fence legally existing when this Ordinance or subsequent amendment became effective that does not conform in use, location, height, or size with the regulations of this Ordinance shall be considered a legal nonconforming fence and shall be permitted to continue in such status while it is either abandoned or removed by its owner, subject to the following limitations:

- a. Structural alterations, enlargement, or re-erection are permissible only if such changes shall not increase the degree of nonconformity of the fence.
- b. Any legal nonconforming fence shall be replaced without increasing the existing height or area if its is damaged, or removed if allowed to deteriorate to the extent that the cost of repair or restoration exceeds fifty percent of the replacement cost of the fence as determined by the code official.
- c. Fences that comply with either item a or b above need not be permitted.

**X – 1.07. Prohibited Fences.**

The following fences shall be specifically prohibited:

- a. Any fence charged or connected with an electric current.
- b. Any fence constructed in whole or in part with barbed wire.
- c. Any fence with a protruding or projecting instrument, spike, nail, or other sharp points or any other materials that may endanger the health, safety, and welfare of the public.
- d. Any fence made out of “chicken wire” or other similar material.
- e. Any fence made out of coil or concertina wire.

Section 2. Permits.

**X – 2.01. Permit Required.**

Unless specifically exempted, a permit shall be obtained from the code official for the erection of all fences erected within the City and under other ordinances of the City. Exemptions from the necessity of securing a permit, however, shall not be construed to relieve the owner of the fence involved from responsibility for its erection and maintenance in a safe manner and in a manner under all the other provisions of this Ordinance. No permit shall be issued to any person who is in default to the City. By way of illustration, a person in default could owe the City income tax, property tax, water bill, or a business license fee. If a written payment plan has been accepted by the chief executive officer, the code official shall issue a conditional permit if all other provisions of this Ordinance are met. All rights and privileges acquired under this Ordinance are mere licenses and may be revoked by the City by a letter to the permit holder upon the violation of any of the conditions herein, whereupon the code official may revoke the fence with costs of removal charged to the permit holder. If the work authorized under a fence permit has not be started within six months, and then finished within thirty days after the date of issuance, the permit shall become null and void.

### **X – 2.02. Permit Fees.**

A fee for services shall be charged. All fees shall be established by resolution of the Common Council during the adoption of the annual budget. Failure to apply for the appropriate fence permit shall result in a municipal civil infraction and a doubling of the permit fee.

### **X – 2.03. Construction Documents.**

Before any permit is granted for the purpose of erecting a fence requiring such permit, construction documents shall be filed with the code official showing the dimensions, materials, and details of fence construction, the location of the parcel of land upon which the fence is to be erected with the property line and the position of the fence in relation to nearby buildings or structures, and any other pertinent data required by the code official. The permit application shall be accompanied by written consent of the owner or lessee of the premises upon which the fence is to be erected and a written agreement between the adjoining property owners as to the location of the lot line or a certified land survey by a licensed land surveyor showing the location of the property line.

## Section 3. Specific Standards.

### **X – 3.01. Types of Fences.**

The following types of fences shall be permitted to be erected or re-erected, subject to the following limitations:

- a. Partition fences may be erected for the purpose of separating, enclosing, or protecting property within its perimeter.
- b. Privacy fences may be erected to constitute a complete visual barrier to persons outside of the perimeter. All privacy fences shall have posts, cross-members, bolts, or any other frame support placed on the side of the fence facing the property of the erector. Privacy fences shall be permitted along the rear lot line. Privacy fences constructed along a side lot line shall be permitted to extend from the rear lot line to the front building line.
- c. Decorative fences out of metal, wood, pipe, or rail as a non sight-obstructing structure may be erected as a landscape treatment to enhance, accent, beautify, or protect the site.

### **X – 3.02. Vegetation.**

Hedges, shrubs, bushes, and evergreen trees shall be considered legal fences if they do not enclose swimming pools, ponds, or other bodies of water. When fully grown, the hedges, shrubs, bushes, and evergreen trees shall not exceed six feet four inches in height and shall be planted not closer than two feet from the lot line. No vegetation considered a legal fence shall obscure the line of sight for drivers on an abutting public right-of-way or private driveway.

### **X – 3.03. Building Lines.**

Fences erected along established front building lines and along rear lot lines shall not exceed the height of six feet four inches above grade level, except that in residential zones, no fence shall be constructed along the front building or lot line that exceeds two feet four inches in height. Along the side lot lines, no fence shall be constructed between the established front building lines and the front property lines with the exception of a four foot four inch high fence of decorative non-sight obscuring material. On a corner lot abutting a public right-of-way, a non-sight-obscuring fence may be permitted not to exceed four feet four inches in height at the established building line, tapering down to a height of two feet four inches at the front lot line.

### **X – 3.04. Construction.**

Any fence post hereinafter erected shall consist of posts that may be one and five-eighths inches (1 5/8") diameter galvanized steel pipe, four inch reinforced concrete, or four inch treated wood, spaced a maximum of ten feet apart, embedded in concrete footings not less than three feet deep in the ground, and shall allow for the erection of a fence as authorized by this Ordinance that is four inches off of the ground to the fence height of four feet four inches to six feet four inches above grade level. All fence posts shall be within the lot line of the person responsible for the maintenance of the fence. Fences shall be made of galvanized woven wire, metal, or decay resistant wood boards. If the fence is erected on the lot line, the junction line of the posts and wire or boards shall be considered to coincide with the property line.

### Section 4. Appeals and Variances.

#### **X – 4.01. Appeals.**

Any person denied a permit to erect or re-erect a fence shall have the right to appeal the decision of the code official to the Board upon filing the appropriate fee. The Board shall, after a public hearing conducted under this Ordinance and the rules of the Board, be authorized to grant dimensional and use variances if the applicant demonstrates upon a finding that all of the following conditions are met:

- a. The particular physical surroundings, shape, or topographical conditions of the property would render compliance with the requirements of this section difficult and would likely result in a particular hardship on the person causing the fence to be erected. No variance shall be granted to anyone who deems a waiver based on the mere inconvenience of the requirements of this Ordinance or to increase financial gain or avoid the financial expense of compliance.
- b. Strict enforcement of the provisions of this Ordinance would serve no useful purpose.
- c. The type of fence and the location proposed would not pose a significant risk to the public health, safety, and welfare.
- d. The benefit of the fence to the general public outweighs any risk to public health, safety, and welfare.
- e. A waiver would be in the best interest of the City and not against the spirit and intent of this Ordinance.

#### **X – 4.02. Variances.**

A dimensional variance shall require a simple majority vote of the Board, and a use variance shall require a two-thirds majority vote of the Board.

## ARTICLE XI. SIGN REGULATIONS.

### Section 1. Purpose.

The purpose of this article is to protect the safe and orderly development of the City through the regulation of signs and sign structures.

### Section 2. Definitions.

The following words and terms shall, for the purposes of this Ordinance, have the meanings shown herein.

**ABANDONED SIGN.** A sign structure that has ceased to be used, and the owner intends no longer to have used, for the display of sign copy, or as otherwise defined by state law.

**ANIMATED SIGN.** A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs as defined and regulated by this Ordinance, include the following types:

- a. **Electrically activated.** Animated signs producing the illusion of movement by means of electronic, electrical, or electro-mechanical input or illumination capable of simulation movement through employment of the characteristics of one or both of the classifications noted below:
  1. **Flashing.** Animated signs or animated portions of signs when illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of nonillumination. For the purposes of this Ordinance, flashing shall not be defined as occurring if the cyclical period between on-off phases of illumination exceeds four seconds.
  2. **Patterned illusionary movement.** Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.
- b. **Environmentally activated.** Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes spinners, pinwheels, pennant strings, or other devices or displays that respond to naturally occurring external motivation.
- c. **Mechanically activated.** Animated signs characterized by repetitive motion or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

**ARCHITECTURAL PROJECTION.** Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but that does not include signs as defined herein. See also, “Awning”; “Back-lit awning”; and “Canopy, attached and freestanding.”

**AWNING.** An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or nonrigid materials or fabric on a supporting framework that may be either permanent or retractable, including such structures that are internally illuminated by fluorescent or other light sources.

**AWNING SIGN.** A sign displayed on or attached flat against the surface or surfaces of an awning. See also, “Wall” or “Fascia sign.”

**BACKLIT AWNING.** An awning with a translucent covering material and a source of illumination contained within its framework.

**BANNER.** A flexible substrate on which copy or graphics may be displayed.

**BANNER SIGN.** A sign utilizing a banner as its display surface.

**BILLBOARD.** See “Off-premise sign” and “Outdoor advertising sign.”

**BUILDING ELEVATION.** The entire side of a building, from ground level to the roofline, as viewed perpendicular to the walls on that side of the building.

**CANOPY (ATTACHED).** A multisided overhead structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) or soffit of an attached canopy may be illuminated by means of internal or external sources of light. See also, “Marquee.”

**CANOPY (FREESTANDING).** A multisided overhead structure or architectural projection supported by columns, but not enclosed by walls. The surface(s) or soffit of an attached canopy may be illuminated by means of internal or external sources of light.

**CHANGEABLE SIGN.** A sign with the capability of content change by means of manual or remote input, including signs which are:

- a. **Manually activated.** Changeable sign whose message copy or content can be changed manually.
- b. **Electrically activated.** Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also, “Electronic message sign or center.”

**COMBINATION SIGN.** A sign that is supported partly by a pole and partly by a building structure.

**COPY.** Those letters, numerals, figures, symbols, logos, and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

**DEVELOPMENT COMPLEX SIGN.** A freestanding sign identifying a multiple-occupancy development, such as a shopping center or planned industrial park, which is controlled by a single owner or landlord.

**DIRECTIONAL SIGN.** Any sign that is designed and erected for the purpose of providing direction or orientation for pedestrian or vehicular traffic.

**DOUBLE-FACED SIGN.** A sign with two faces, back to back.

**ELECTRIC SIGN.** Any sign activated or illuminated by means of electrical energy.

**ELECTRONIC MESSAGE SIGN OR CENTER.** An electronically activated changeable sign whose variable message capability can be electronically programmed.

**EXTERIOR SIGN.** Any sign placed outside a building.

**FAÇADE.** See “Building façade.”

**FASCIA SIGN.** See “Wall sign.”

**FLASHING SIGN.** See “Animated sign, electrically activated.”

**FREESTANDING SIGN.** A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles, or braces placed in or upon the ground.

**FRONTAGE (BUILDING).** The length of an exterior building wall or structure of a single premise oriented to the public way or other properties that it faces.

**FRONTAGE (PROPERTY).** The length of the property line(s) of any single premise along either a public way or other properties on which it borders.

**GROUND SIGN.** See “Freestanding sign.”

**ILLUMINATED SIGN.** A sign characterized by the use of artificial light, either projection through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated).

**INTERIOR SIGN.** Any sign placed within a building, but not including “window signs” as defined by this Ordinance. Interior signs, with the exception of window signs as defined, are not regulated by this Ordinance.

**MANSARD.** An inclined decorative roof-like projection that is attached to an exterior building façade.

**MARQUEE.** See “Canopy (attached).”

**MARQUEE SIGN.** See “Canopy sign.”

**MENU BOARD.** A freestanding sign oriented to the drive-through lane for a restaurant that advertises the menu items available through the drive-through window, and which has no more than twenty percent of the total area for such a sign used for business identification.

**MULTIPLE-FACED SIGN.** A sign containing three or more faces.

**OFF-PREMISE SIGN.** See “Outdoor advertising sign.”

**ON-PREMISE SIGN.** A sign erected, maintained, or used in the outdoor environment for the purpose of display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

**PARAPET.** The extension of a building façade above the line of the structural roof.

**POLE SIGN.** See “Freestanding sign.”

**POLITICAL SIGN.** A temporary sign intended to advance a political statement, cause, or candidate for office. A legally permitted outdoor advertising sign shall not be considered to be a political sign.

**PORTABLE SIGN.** Any sign not permanently attached to the ground or to a building or building surface.

**PROJECTING SIGN.** A sign other than a wall sign that is attached to or projects more than eighteen inches from a building face or wall or from a structure whose primary purpose is other than the support of a sign.

**REAL ESTATE SIGN.** A temporary sign advertising the sale, lease, or rental of the property or premises upon which it is located.

**REVOLVING SIGN.** A sign that revolves 360 degrees about an axis. See also, “Animated sign, mechanically activated.”

**ROOF LINE.** The top edge of a peaked roof or, in the case of an extended façade or parapet, the uppermost point of the façade or parapet.

**ROOF SIGN.** A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which such a building wholly or partially supports. Sign mounted on mansard facades, pent eaves, and architectural projections such as canopies or marquees shall not be considered to be roof signs.

**SIGN.** Any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any flags displayed from flagpoles or staffs shall not be considered to be signs.



**SIGN AREA.** The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double-sided or “V” shaped sign shall be the area of the largest single face only. The area of a sphere shall be computed as the area of a circle. The area of all other multiple-sided signs shall be computed as fifty percent of the sum of the area of all faces of the sign.

**SIGN COPY.** Those letters, numerals, figures, symbols, logos, and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only.

**SIGN FACE.** The surface upon, against, or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border.

- a. In the case of a panel or cabinet type signs, the sign face shall include the entire area of the sign panel, cabinet, or face substrate upon which the sign copy is displayed or illustrated, but not open space between separate panels or cabinets.
- b. In the case of sign structures with routed areas of sign copy, the sign face shall include the entire area of the surface that is routed, except where interrupted by a reveal, border, or a contrasting surface or color.
- c. In the case of signs painted on a building, or individual letters or graphic elements affixed to a building or structure, the sign face shall comprise the sum of the geometric figures or combination of regular geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the sign copy, but not the open space between separate groupings of sign copy on the same building or structure.
- d. In the case of sign copy enclosed within a painted or illuminated border, or displayed on a background contrasting in color with the color of the building or structure, the sign face shall comprise the area within the contrasting background, or within the painted or illuminated border.

**SIGN STRUCTURE.** Any structure supporting a sign.

**TEMPORARY SIGN.** A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

**UNDER CANOPY SIGN OR UNDER MARQUEE SIGN.** A sign attached to the underside of a canopy or marquee.

**V SIGN.** Signs containing two faces of approximately equal size, erected upon common or separate structures, positioned in a “V” shape with an interior angle between faces of not more than ninety degrees with the distance between the sign faces not exceeding five feet at their closest point.

**WALL OR FASCIA SIGN.** A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 18 inches from the building or structure wall, including signs affixed to architectural projections from a building if the copy area of such

signs remain on a parallel plane to the face of the building façade or to the face or faces of the architectural projection to which it is affixed.

WINDOW SIGN. A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

### Section 3. Permits.

#### **XI – 3.01. Permit Required.**

Unless specifically exempted, a permit shall be obtained from the code official for the erection and maintenance of all signs erected or maintained within the City and under other ordinances of the City. Exemptions from the necessity of securing a permit, however, shall not be construed to relieve the owner of the sign involved from responsibility for its erection and maintenance in a safe manner and in a manner under all the other provisions of this Ordinance. No permit shall be issued to any person who is in default to the City. By way of illustration, a person in default could owe the City income tax, property tax, water bill, or a business license fee. If a written payment plan has been accepted by the chief executive officer, the code official shall issue a conditional permit if all other provisions of this Ordinance are met. All rights and privileges acquired under this Ordinance are mere licenses and may be revoked by the City by a letter to the permit holder upon the violation of any of the conditions herein, whereupon the code official may revoke the sign with costs of removal charged to the permit holder. If the work authorized under a sign permit has not been started within six months, and then finished within thirty days after the date of issuance, the permit shall become null and void.

#### **XI – 3.02. Permit Fees.**

A fee for services shall be charged. All fees shall be established by resolution of the Common Council during the adoption of the annual budget. Failure to apply for the appropriate sign permit shall result in a municipal civil infraction and a doubling of the permit fee.

#### **XI – 3.03. Construction Documents.**

Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents prepared by a design professional shall be filed with the code official showing the dimensions, materials, and required details of construction, including loads, stresses, anchorage, and any other pertinent data he may require. The permit application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected and by engineering calculations signed and sealed by a registered design professional if required by the State Construction Code.

#### **XI – 3.04. Bond Required.**

No person, firm, or corporation shall erect, install, remove, or rehang any sign for which a permit is required under this Ordinance until an approved bond shall have been filed with the code official in an amount to be determined by annual resolution of the Common Council upon adoption of the budget. Such bond shall bear no interest and shall indemnify, save, and keep harmless the City from any and all costs, damages, or expenses of any kind whatsoever which may be suffered by the City, or which it may be put to, or which may accrue against it by charging to or recovering from the City from or by reason of the granting of permission to erect the signs, or by reason of any acts or things done under or by authority or permission granted by the code official to erect such signs in the City, or by reason of the negligence, failure, or refusal

of any person, firm, or corporation to comply with all applicable provisions of this Ordinance. The obligation herein specified shall remain in force and effect during the life of every sign and shall not be cancelled by the principal or surety until after thirty days' notice to the code official.

**XI – 3.05. License Required.**

Every person, firm, or corporation desiring to erect signs for which a permit is required under this Ordinance shall apply to the code official for a sign erector's license, and shall furnish such other information as the code official shall require. A Sign erector's license shall be good for the same period of time as a contractor's registration in the City. The Common Council shall by resolution annually set the fee for a sign erector's license upon the adoption of the budget. The code official shall examine the qualifications of each applicant and shall cause a license to be issued to all those properly qualified after their bonds have been filed and approved by the City Attorney. Holders of sign erector licenses shall notify the code official immediately upon any material changes to the information that was previously given to the code official. At any time the bond of any sign erector lapses, his license shall be automatically revoked. If the holder of a sign erector's license shall fail to comply with any notice of the code official relative to the improper construction or erection of any sign, the code official shall immediately notify, in writing, the senior official in charge of such firm or corporation, at the address shown upon the sign erector's application, to appear before him at a stated time and show cause why his firm's license shall not be revoked. After such hearing if the code official is not satisfied that the defects identified by the code official shall not be addressed in a timely fashion, the code official shall recommend to the Common Council that such sign erector's license shall be revoked. Such license shall automatically be revoked if the notified senior officer does not appear for such hearing or if he cannot be found after a diligent search at the address on the license application. The Common Council shall revoke the license of any sign erector who does not comply with the provisions of this Ordinance.

Section 4. General Provisions.

**XI – 4.01. Changes to Signs.**

No sign shall be structurally altered, enlarged, or relocated except in conformity to the provisions herein, nor until a proper permit, if required, has been secured. The changing or maintenance of moveable parts or components of an approved sign that is designed for such changes, or the changing of copy, business names, lettering, sign faces, colors, display, or graphic matter, or the content of any sign shall not be deemed a structural alteration.

**XI – 4.02. Conformance to Codes.**

Any sign hereinafter erected shall conform to the provisions of this Ordinance, the provisions of the State Construction Code, and any other ordinances of the City.

**XI – 4.03. Signs in Rights-of-Way.**

No sign other than an official traffic sign or similar sign shall be erected within two feet of the lines of any street, or within any public way, unless specifically authorized by the code official.

**XI – 4.04. Projections over Public Ways.**

Signs projecting over public walkways shall be permitted to do so subject to the projection and clearance limits either defined herein or, if not so defined, at a minimum height of eight feet from grade level to the bottom of the sign. Signs, architectural projections, or sign structures

projecting over vehicular access areas shall conform to the minimum height clearance limitations imposed by the City for such structures.

**XI – 4.05. Traffic Visibility.**

No sign or sign structure shall be erected at the intersection of any street in such a manner as to obstruct the free and clear vision, nor at any location if by its position, shape, or color, it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal, or device.

**XI – 4.06. Computation of Frontage.**

If a premises contains walls facing more than one property line or encompasses property frontage bounding by more than one street or other property uses, the sign area(s) for each building wall or property frontage shall be computed separately for each building wall or property line facing a different frontage. The sign area(s) thus calculated shall be permitted to then be applied to permitted signs placed on each separate wall or property line footage, as long as an egress is located in the wall facing the side street.

**XI – 4.07. Maintenance, Repair, and Removal.**

Every sign permitted by this Ordinance shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling, or is otherwise deemed unsafe by the code official, or if any sign shall be unlawfully installed, erected, or maintained in violation of any provision of this Ordinance, the owner thereof or the person or firm using the sign shall, upon written notice by the code official immediately in the case of immediate danger, and in any case within not more than ten days, make such sign conform to the provisions of this Ordinance, or shall remove it. If within ten days the order is not complied with, the code official shall be permitted to remove or cause such sign to be removed at the expense of the owner or user of the sign or both.

**IX – 4.08. Obsolete Sign Copy.**

Any sign copy that no longer advertises or identifies a use conducted on the property on which the sign is erected shall be covered or removed by the property owner within thirty days upon written notification by the code official; and upon failure to comply with such notice, the code official is hereby authorized to cause removal of such sign copy, and any expense incident thereto shall be paid by the owner of the sign, or the building or structure on which the sign is located.

**IX – 4.09. Nonconforming Signs.**

Any sign legally existing when this Ordinance or subsequent amendment became effective that does not conform in use, location, height, or size with the regulations of the zone in which such sign is located, shall be considered a legal nonconforming use or structure and shall be permitted to continue in such status until it is either abandoned or removed by its owner, subject to the following limitations:

- a. Structural alterations, enlargement, or re-erection are permissible only if such alterations shall not increase the degree of nonconformity of the signs.
- b. Any legal nonconforming sign shall be removed or rebuilt without increasing the existing height or area if its is damaged, or removed if allowed to deteriorate to the extent that the cost of repair or restoration exceeds fifty percent of the replacement cost of the sign as determined by the code official.
- c. Signs that comply with either item above need not be permitted.

Section 5. Specific Sign Standards.

**XI – 5.01. Animated and Changeable Messages.**

Animated signs, except as those prohibited in Article XI, Section 7, are permitted in commercial and industrial zones only. Changeable signs, manually activated, are permitted for nonresidential uses in all zones. Changeable signs, electrically activated, are permitted in all nonresidential zones.

**XI – 5.02. Awning Signs.**

Awning signs shall be permitted for ground or second floor uses only in commercial districts, subject to the following limitations:

- a. Awning signs shall be straight sheds or curved.
- b. Awning signs shall be limited to one awning sign per first or second story business tenant, on either awning or valance, but not on both.
- c. Awning signs shall include only the name of the business.
- d. If acting as the main business sign, the awning sign shall not be in addition to a sign on the band.
- e. The distance from the sidewalk to the lower drip edge of the awning shall be between eight feet and twelve feet.
- f. The vertical drip of an awning may be stenciled with signage a maximum of eight inches in vertical dimension by any horizontal length.

**XI – 5.03. Billboards.**

Billboards shall be permitted only in industrial districts and shall be no closer than three hundred feet from any residential district. Existing nonconforming billboards may be maintained, but cannot be expanded, enlarged, or extended.

**XI – 5.04. Canopy and Marquee Signs.**

None at this time.

**XI – 5.05. Directional Signs.**

All directional signs required for the purpose of orientation, when established by the City, county, state, or federal governments, shall be permitted in all districts.

**XI – 5.06. Freestanding Signs.**

The location of all free standing signs within fifty feet of any intersecting right-of-way lines shall be subject to the approval of the Director of Public Safety or his designee.

**XI – 5.07. Menu Boards.**

Menu boards shall not be permitted to exceed fifty square feet.

**XI – 5.08. Projecting Signs.**

Projecting signs shall be permitted for ground or second floor uses only in commercial districts, subject to the following limitations:

- a. No more than one projecting sign for each business tenant shall be permitted.
- b. Projecting signs shall be spaced no less than twenty feet apart horizontally and no less than ten feet apart vertically.
- c. The distance from the ground to the lower edge of the signboard shall be eight feet or greater.
- d. The area of the projecting sign shall not exceed six square feet.

- e. The distance from the primary face of building to the signboard shall not exceed six inches.
- f. Projecting signs over County roads shall meet conditions established by Wayne County.

### **XI – 5.09. Temporary Signs.**

- 5.09.1. *General.* For purposes of clarification, a “real estate sign”, “development and construction sign”, “special promotions, event, and grand opening signs”, “special event signs in public ways”, and “political signs” as described in this section are subject to these standards.
- 5.09.2. *Real Estate Signs.* Real estate signs shall be permitted when located on the land or building intended to be rented, leased, or sold. The signs shall not exceed a dimension of nine square feet total area in a residential district, or forty square feet in all other districts, and shall be removed within thirty days of the date of the renting, leasing, or sale. No permit for legal real estate signs shall be required.
- 5.09.3. *Development and Construction Signs.* Signs advertising developments or subdivisions shall be permitted to be erected upon the issuance of a building permit for the development or subdivision. The permit shall be issued for a period not to exceed two years, but is subject to renewal upon application.
- 5.09.4. *Special Promotions, Event, and Grand Opening Signs.* Temporary exterior signs displayed to advertise special promotions, events, and grand openings shall be permitted for nonresidential uses in a residential district, and for all commercial and industrial districts subject to the following limitations:
  - a. A sign, banner, or advertising device constructed of cloth, canvass, fabric, plastic, wood, or other light temporary material, with or without a structural frame, or any other portable sign, intended for a limited period of display, but not including decorative displays for a holiday or public demonstration, shall be permitted by the code official for thirty days at a time for each business place. No business may have a temporary sign for more than two months in a single calendar year.
  - b. No temporary sign advertising a business opening or change in ownership shall exceed an area of sixteen square feet.
  - c. No temporary sign may have a single face greater than thirty square feet in area, have a greater total surface area more than sixty square feet, or be a greater height than ten feet above the ground. The lower edge of a temporary sign shall be of a height not less than eighteen inches above the surrounding grade level.
  - d. No more than one temporary sign shall be displayed on any property.
  - e. Temporary signs shall be removed as soon as torn or damaged, or promptly at the end of the display period.
- 5.09.5. *Special Event Signs in Public Ways.* Signs advertising a special community event shall be permitted to be displayed in or over public rights-of-way, subject to approval by the code official as to the size, location, and method of erection. The code official shall not approve any special event signage that would impair the safety and convenience of use of public rights-of-way, or obstruct traffic visibility.

- 5.09.6. *Portable Signs.* Portable signs shall be permitted only in commercial and industrial districts, as designated in this Ordinance, subject to the following limitations:
- a. No portable sign shall be displayed before obtaining a sign permit.
  - b. No portable sign shall be displayed on City property, unless the City provides such sign for official City business. No permit shall be required.
  - c. No more than one portable sign shall be displayed on any property, and shall not exceed a height of three feet or an area of nine feet.
  - d. No sign shall be displayed for more than thirty days in any calendar year.
  - e. Any electrical portable signs shall comply with the electrical code as adopted by the City.

- 5.09.7. *Political Signs.* Political signs shall be permitted in all zoning districts, subject to the following limitations:
- a. All political signs shall be no larger than sixteen square feet.
  - b. All political signs may be displayed for a period of sixty days preceding the election to which the message pertains and shall be removed within ten days after the election. Signs promoting successful candidates or ballot propositions in a primary election may remain displayed until not more than ten days after the general election.
  - c. Such signs shall not be placed in any public right-of-way or obstruct traffic visibility.
  - d. No political sign shall be displayed on or in any vacant or abandoned property in the City of Hamtramck.
  - e. No permit shall be required.

#### **XI – 5.10. Wall Signs.**

No wall sign shall cover wholly or partially any wall opening. No wall sign shall be erected to extend above the top of the wall to which it is attached, nor extend beyond the ends of the wall to which it is attached. The total surface area of any wall sign placed on the front of a building shall not exceed one square foot for each lineal foot of building frontage, and all wall signs shall not exceed a total surface area of one hundred square feet. All wall signs of a total surface area greater than fifty square feet shall have a surface or facing of incombustible material. No wall sign shall project more than eighteen inches from the building or structure wall. In any commercial district, one wall sign, not exceeding six square feet in area, shall be permitted on any side or rear entrance open to the public. Service entrances may be identified with one sign not exceeding two square feet. Only the business name and address or phone number shall be permitted.

#### **XI – 5.11. Window Signs.**

Window signs shall be permitted in all districts, subject to the following limitations:

- a. The storefront window or door may be stenciled with signage including store hours not to exceed one and one-half feet in vertical dimension and four feet in horizontal dimension.
- b. The sign shall be silk screened, professionally hand painted, or made of applied vinyl letters. Colored vinyl letters shall be consistent with the overall color scheme and character of the storefront.
- c. A window sign is limited to one sign per building business tenant, painted on either the window or the door, but not on both, with the exception of store hours, which may be displayed on the door apart from the business sign in the store window.
- d. A window sign on the door may include business hours in addition to the business name.

- e. Compact neon signs shall be permitted within the interior of shop fronts if they do not exceed a maximum of four square feet in area per fifty square feet of window area.
- f. One open/closed sign not exceeding two square feet may be displayed in the window or door, but not both.

**Section 6. Exempt Signs.**

The following signs shall be exempt from the provisions of this Ordinance; however, no sign shall be exempt from the section related to traffic visibility:

- a. Official notices authorized by a court, public body, or public safety official.
- b. Directional, warning, or information signs authorized by federal, state, or municipal governments.
- c. Memorial plaques, building identification signs, and building cornerstones when cut or carved into a masonry surface or when made of noncombustible material and made an integral part of the building or structure.
- d. The flag of a government or noncommercial institution, such as a school.
- e. Religious symbols and seasonal decorations within the appropriate public holiday season.
- f. Works of fine art displayed in conjunction with a commercial enterprise if the enterprise does not receive direct commercial gain.
- g. Street address signs and combination nameplate and street address signs that contain no advertising copy and which do not exceed six square feet in area.

**Section 7. Prohibited Signs.**

The following devices and locations shall be specifically prohibited:

- a. Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal, or device, or obstruct or interfere with a driver's view of approaching, merging, or intersecting traffic.
- b. Except as authorized elsewhere in this Ordinance, signs encroaching upon or overhanging public right-of-way.
- c. Signs attached to any utility pole, light standard, street tree, or any other public facility located within the public right-of-way.
- d. Signs that blink, flash, or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warnings from a distance.
- e. Portable signs except as allowed for temporary signs.
- f. Any sign attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs meeting the following conditions:
  - 1. The primary purpose of such a vehicle or trailer is not the display of signs.
  - 2. The signs are magnetic, decals, or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.
  - 3. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in the daily function of the business to which signs relate.
- g. Vehicles and trailers not used primarily as static displays, advertising a product or service, used as storage, shelter, or distribution points for commercial products, or services for the general public.



- h. Balloons, streamers, or pinwheels, except those temporarily displayed as part of a special sale, promotion, or community event. For the purposes of this subsection, “temporarily” means no more than twenty days in any calendar year.
- i. Under canopy signs.
- j. Roof signs.
- k. Abandoned signs.
- l. Any sign painted on the exterior of a building or structure.

## ARTICLE XII. SITE PLAN REVIEW REQUIREMENTS AND PROCEDURES.

### Section 1. General.

#### **XII – 1.01. Scope.**

In every zoning district, no building or structure shall be demolished or razed, except for dangerous or condemned buildings, erected, converted to other use, or structurally altered, except as may be otherwise provided in this Ordinance, until the Commission has reviewed and approved a site plan for such use. Each action taken with respect to site plan review and approval shall be duly recorded in the minutes of the Commission. One and two family residential structures shall be exempted from the application of the provisions of this section.

#### **XII – 1.02. Purpose.**

The purpose of site plan review is to provide flexibility in the placement and interrelationship of the buildings and uses within each building site subject to plan approval, and to provide for the implementation of design concepts while at the same time maintaining the overall intensity of land use, density of population, and amounts of light, air, access and landscaped open space as required in this Ordinance. The objectives of site plan review are to:

- a. Discourage monotonous, drab, unsightly, dreary and inharmonious developments, and poor quality;
- b. Conserve the City's natural beauty and visual character and charm by ensuring that structures, signs, and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain and landscaping, and that proper attention is given to exterior appearance of structures, signs, and other improvements;
- c. Stabilize and improve property values and prevent blighted areas;
- d. Foster civic pride and community spirit so as to improve the quality and quantity of citizen participation in local government and in community growth, change and improvement;
- e. Sustain the comfort, health, tranquility, and contentment of residents and attract new residents by reason of the City's favorable environment;
- f. Provide for consultation and cooperation between the developer and the Commission so that both parties might realize maximum utilization of land and minimum adverse effects upon the surrounding area.

### Section 2. Site Plan Review Process

#### **XII – 2.01. Scope.**

The City has established a two-tier site plan review process: preliminary site plan review and final site plan review. This process has been established so that an applicant can receive City comments on the general conformity of a proposed site plan to City requirements before preparing a complete package of engineering, drawings, landscape plans, construction details, etc. Questions regarding this process may be directed to Building Code Official or the Commission.

#### **XII – 2.02. Preliminary Site Plan Review.**

2.02.1. *Scope.* A site plan submitted to the City for preliminary site plan review shall contain all of the information set forth in the preliminary site plan data checklist included in this section. Adequate engineering data to establish engineering feasibility of utilities proposed is required, however, detailed engineering plans and detailed landscaping plans are optional at this stage in the process.

2.02.2. *Fees.* A fee as determined from time to time by resolution of the Common Council shall

accompany any application for site plan approval, preliminary or final. Such fee may be utilized by the City to determine if the development shall conform to the applicable City ordinances, policies and standards, and for investigation and report of any objectionable elements.

- 2.02.3. *Initiating the Process.* To initiate the preliminary site plan review process, the applicant shall submit the following information to the Building Code Official fifteen (15) days prior to the next regularly scheduled Commission meeting:
- a. Ten (10) copies (please fold) of the site plan;
  - b. Ten (10) copies of the site plan application form;
  - c. Ten (10) copies of the completed preliminary site plan data checklist;
  - d. Payment of all applicable fees.

Completed application packets shall be distributed by the Building Code Official to the Commission and other appropriate departments and agencies.

- 2.02.4. *Plan Commission Approval, Conditional Approval, or Denial of Preliminary Site Plan.* The Commission shall grant approval, conditional approval, or deny approval, of the preliminary site plan within sixty-five (65) days of receipt of site plan. If the Commission does not act upon a preliminary site plan within said sixty-five- (65) day period, the preliminary site plan shall be forwarded to the Common Council for review without recommendation.

**2.02.4.1. Approval.** Upon determination by the Commission that a preliminary site plan is in compliance with the Zoning Ordinance, as amended, and other applicable standards and requirements, preliminary site plan approval shall be granted and such approval shall be indicated on the plan. The applicant may then proceed to the final site plan review process described below.

**2.02.4.2. Conditional approval.** Upon determination of the Commission that a plan is in compliance except for minor required revisions, preliminary site plan approval, conditional upon such revisions being made, shall be granted and that the required changes shall be stated in writing. The applicant may then proceed to the final site plan review process described below, provided that the required changes are incorporated in the final site plan.

**2.02.4.3. Denial.** If extensive revisions to the preliminary site plan are necessary to meet applicable standards and requirements, preliminary site plan approval shall be denied and the applicant requested to provide an alternative site plan. In this case, "DENIED" shall be written on the plan and the reasons for denial indicated in writing. If the applicant desires to prepare an alternative plan, the same procedures as outlined above beginning with submittal to the Building Code Official shall be followed.

- 2.02.5. *Failure of Applicant to Appear.* The applicant or his representative(s) shall attend all meetings at which the development is scheduled for discussion or action. Failure to appear at the meeting may cause the item to be tabled to the next meeting.

## **XII – 2.03. Final Site Plan Review.**

- 2.03.1. *Fees.* A fee as determined from time to time by resolution of the Common Council shall accompany any application for site plan approval, preliminary or final. Such fee may be utilized by the City to determine if the development shall conform to the applicable City ordinances, policies and standards, and for investigation and report of any objectionable elements.

- 2.03.2. *Initiating the Process.* Within six months of the granting of preliminary site plan approval, the applicant may initiate the final site plan review process by submitting the following information to the Building Code Official fifteen (15) days prior to the next regularly

scheduled Commission meeting:

- a. Ten (10) copies (please fold) of the site plan;
- b. Ten (10) copies of the site plan application form;
- c. Ten (10) copies of the completed preliminary site plan data checklist;
- d. Payment of all applicable fees.

2.03.3. *Public Hearing.* Upon receipt and review of a final site plan, the Commission shall establish a public hearing thereon in any of the following events:

- a. When at least three (3) members of the Commission deem it necessary;
- b. When requested by the applicant seeking site plan review and approval;
- c. When the Commission receives a petition signed by twenty percent (20%) of the property taxpayers, within three hundred (300) feet.

2.03.4. *Review Process.* After submission of a complete final site plan review package pursuant to the requirements listed above, and within sixty (60) days after completion of review and recommendation by the Building Code Official and other departments and agencies, the application shall be placed on regular agenda of a meeting of the Commission to consider final site plan approval. The applicant shall be notified of the date, time, and place of the meeting at which the Commission shall consider the application. The Commission shall consider all review letters and reports from the Building Code Official and other departments and agencies, together with statements, evidence, or arguments as the applicant may present concerning the application. The Commission shall determine whether the site plan is in compliance with the Zoning Ordinance and all applicable standards and requirements, and shall make a recommendation to the Common Council to grant, conditionally grant, or deny final site plan approval. If the Commission does not act upon the final site plan within said sixty (60) day period, the final site plan shall be forwarded to the Common Council for review without recommendation.

2.03.5. *Council Authority.* After the Commission has acted on the application, it shall be forwarded to the Common Council for review and action, or the applicant may revise the application and resubmit it to the Building Code Official for additional review at the staff and Commission levels. If the application is sent to the Common Council for review and action, the application shall be placed on the agenda of a meeting of the Common Council. The applicant shall be notified of the date, time, and place of the meeting at which the Common Council shall consider the application. A decision for approval, conditional approval, or denial of approval of the final site plan shall be made within thirty (30) days after the Common Council has received the recommendation of the Commission and reviewed letters and reports from the Building Code Official and other reviewing departments and agencies, together with such statements, evidence, or arguments as the applicant may present concerning the application. Upon approval of the final site plan by a majority vote of the Common Council following determination that the final site plan is in compliance with the Zoning Ordinance, as amended, and other applicable standards and regulations, such approval shall be indicated on the plan. If revisions to the final site plan are necessary to meet Ordinance requirements and standards, approval of the final site plan shall be denied and the applicant requested to prepare an alternative site plan. In this case "DENIED" shall be written on the plan and the reasons for denial indicated in writing. If the applicant desires to prepare an alternative plan, the same procedure as outlined above beginning with submittal to the Building Code Official shall be followed. All final site plans shall go before the Common Council for approval or denial.

- 2.03.6. *Failure of Applicant to Appear.* The applicant or his representative(s) shall attend all meetings at which the development is scheduled for discussion or action. Failure to appear at the meeting may cause the item to be tabled to the next meeting.
- 2.03.7. *Expiration of Site Plan Approval.* The approval of any preliminary site plan under the provisions of this Ordinance shall expire and be considered revoked six (6) months after the date of such approval unless final site plan approval has been granted or is in an active stage of review. Approval of any final site plan under the provisions of this Ordinance shall expire and be considered revoked one (1) year after the date of such approval unless actual construction has commenced in accordance with the issuance of a valid building permit. Upon expiration of a final site plan approval, all preliminary site plan approvals shall expire.
- 2.03.8. *Outside Agency Approval Required.* Final site plan approval shall not be granted until all approvals have been obtained from outside agencies.

### Section 3. Site Plan Review Criteria.

#### **XII – 3.01. General.**

In reviewing site plans, the Building Code Official, Commission, and Common Council shall consider and endeavor to assure the following:

- a. The location of development features, including principal buildings, and open spaces, and the location, design, width, and adequacy of all curb cuts, parking areas, driveways, and sidewalks within the site and their relationship to nearby connecting streets and sidewalks providing access to and egress from the site, are such as to minimize possible adverse effects on adjacent properties and so as to relate properly to pedestrian vehicular traffic safety;
- b. On-site circulation of both vehicular and pedestrian traffic shall achieve both safety and convenience of persons and vehicles using or visiting the site;
- c. Landscaping, earth berms, fencing, signs, and obscuring walls are of such a such a design and location that the proposed development is aesthetically pleasing and is harmonious with nearby existing or future developments;
- d. Utility service, including proposed water, sanitary sewer, and stormwater runoff systems are sufficient to fulfill the projected needs of the development and the recommendation of the City Engineer and the Director of Public Safety. Approval by a state or county department having jurisdiction may also be a prerequisite to approval;
- e. Notwithstanding any other provision of this Ordinance, the City may require as a condition of final site plan approval, landscaping, berming, fencing, construction of walls, marginal access drives or other appurtenances as necessary or desirable to promote the health, safety, and welfare of the community, to provide adequate protection to surrounding properties, to preserve and promote the character of the district and to achieve a lasting and desirable improvement to the community.

## **XII – 3.02. Preliminary and Final Site Plan Application Form Contents.**

The following information shall be included on all preliminary and final site plan application forms:

- a. Applicant's name, address, and phone number;
- b. Name of proposed development;
- c. Common description of property and complete legal description;
- d. Land acreage and frontage on public roads or rights-of-way;
- e. Existing zoning and zoning of adjacent properties;
- f. Detailed description of the proposed use of the land;
- g. Name, address, and phone number of the firm or individual who prepared the site plan and legal owner of the property;
- h. Signature of applicant and legal owner of the property, if not the applicant.

## **XII – 3.03. Preliminary Site Plan Data Required.**

The following information shall be included on all preliminary site plans submitted for consideration:

- a. Name of development and title block;
- b. Location map at a scale of one (1) inch equals two-thousand (2,000) feet, showing section number(s), site location, major roads, and railroads;
- c. A scale of not less than one (1) inch equals fifty (50) feet if the subject property is less than three (3) acres, and one (1) inch equals one hundred (100) feet if there are three (3) acres or more;
- d. Date, north point, and scale (graphic and written);
- e. Property identification number(s) and the dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties;
- f. Location of all existing and proposed structures, uses, number of stories, gross building area, setback lines, distances between structures, and location of loading areas on the subject property;
- g. Location of all existing structures within one hundred (100) feet of the subject property lines;
- h. All existing and proposed aisles, drives, pedestrian paths, roadways, parking areas, and number of parking spaces on the subject property lines;
- i. All existing and proposed roadways, drives, parking areas, and pedestrian paths within one hundred (100) feet of the subject property;
- j. Location and height of all walls, fences, and screen planting, including a plan for landscaping of the development and the method by which landscaping is to be accomplished and maintained;
- k. Location and width of all abutting streets, rights-of-way, easements, and pavements;
- l. Types of surfacing, such as asphalt or concrete paving, turfing, sod, or stone to be used;
- m. Types of facing materials to be used on structures;
- n. Elevations (front, sides and rear views) of all sides of the building(s);
- o. A floor plan drawing showing the specific use areas of all existing and proposed building on-site;
- p. Seal of registered architect, landscape architect, land surveyor, or, civil engineer that prepared the plan. In cases of minor structural alterations where professional services are not required, additions of three hundred (300) square feet or less, or for changes in the use of existing buildings, the Building Code Official may waive this requirement;

- q. Density calculations (for multiple family projects);
- r. Principal and accessory buildings;
- s. Designation of units by type of buildings;
- t. Interior walks and pedestrian or bicycle paths within the right-of-way;
- u. Exterior lighting locations, type of fixtures, and methods of shielding them from projecting onto adjoining properties;
- v. Trash receptacle and transformer locations and method of screening;
- w. Drive or street approaches including acceleration, deceleration, and passing lanes where appropriate;
- x. All utilities located on or serving the site, including sizes of water and sewer lines;
- y. Loading and unloading areas;
- z. Designation of fire lanes;
- aa. Estimated number of full-time and part-time employees;
- bb. Address location an building and size of numbers;
- cc. Where large equipment or machinery is to be installed as part of the development, the location, type, horse-power, fuel, dimensions, noise, vibration, and emission levels and other data of all such equipment or machinery;
- dd. General location and types of proposed signs for all buildings and uses on site;
- ee. Such other reasonable and relevant information as may be required by the City to assist in the review of the proposed development.

**XII –3.04. Final Site Plan Data Required.**

In addition to the preliminary site plan data specified above, the following minimum information shall be added for final site plan review and approval:

- a. Site engineer plans prepared by a registered civil engineer. Such plans shall be submitted to the Building Code Official for review and recommendation prior to Commission consideration of final site plan approval, and for final review and approval following the granting of final site plan approval by the Common Council. Plans shall include the following:
  - 1. A proposed grading and drainage plan. The plan shall show proposed finished floor elevations, finished grades at structures, proposed storm collection system (including bioswales or other green infrastructure such as rain gardens, permeable pavement, and green roofs), storm outlet(s), ultimate downstream outlets and, when required retention/detention basin design calculations. Any areas of filled or reclaimed land shall be identified and all development shall detain stormwater so that the runoff from the property does not negatively impact upon adjacent properties or public and private rights-of-way;
  - 2. All utilities located on or serving the site, including sizes of water and sewer lines, proposed hydrants, proposed meter size, and proposed fire suppression line into building. Proposed sanitary leads, disposal systems shall also be shown, as applicable;
  - 3. Proposed streets and drives showing type of surfacing, whether public or private, and grade elevations.
- b. Proposed fire lanes and fire lane signs;
- c. Proposed signs and specifications for control of traffic;
- d. Seal and signature of registered design professional responsible for preparation of the plans;

- e. Measures to be taken to protect existing on-site trees not proposed for removal as part of the development;
- f. Landscaping plan showing species, spacing, and size of each tree and plant material and ground cover;
- g. Proposed signs for all buildings and uses on site, including character, size, letters, symbols, and lighting.

#### Section 4. Combining Preliminary and Final Site Plans.

An applicant may, at the applicant's discretion and risk, with approval of the Commission combine a preliminary and final site plan in an application for approval. The Commission shall have the authority to require submittal of a preliminary site plan separate from a final site plan, where, in its opinion, the complexity or size of the proposed development so warrants. A preliminary and final site plan shall not be combined for any development consisting of two (2) or more phases.

#### Section 5. Phasing of Development.

An applicant may divide the proposed development into two (2) or more phases. In such case, the preliminary site plan shall cover the entire property involved and shall clearly indicate the location, size, and character of each phase. A final site plan shall be submitted for review and approval for each phase.

#### Section 6. Inspection.

The Building Code Official shall be responsible for inspecting all improvements for conformance with the approved final site plan. All sub-grade improvements, such as utilities, sub-base installations for drives and parking lots, and similar improvement shall be inspected and approved prior to covering. The applicant shall be responsible for requesting the necessary inspections. The Building Code Official shall notify the Commission in writing when a development for which a final site plan is approved has passed inspection with respect to the approved final site plan. The Building Code Official shall notify the Common Council and the Commission in writing, of any development for which a final site plan was approved, which does not pass inspection with respect to the approved final site plan, and shall advise the Common Council and the Commission of the steps taken to achieve compliance. In such case the Building Code Official shall periodically notify the Common Council and Commission of progress towards compliance with the approved final site plan and when compliance is achieved.

#### Section 7. Violations.

The approved final site plan shall become part of the record of approval, and subsequent action relating to the site in question shall be consistent with the approved final site plan, unless the Common Council agrees to such changes. Any violation of the provisions set forth above, including any improvements not in conformance with the approved final site plan, shall be deemed a violation of this Ordinance and shall be subject to all penalties herein.



## ARTICLE XIII. SPECIAL LAND USE REVIEW REQUIREMENTS AND PROCEDURES.

### Section 1. General.

#### **XIII – 1.01. Intent.**

The formulation and enactment of this Ordinance is based upon the division of the City into districts, in each of which are specified permitted uses which are mutually compatible. In addition to such permitted uses, however, there are certain other uses which may be necessary or desirable to allow in certain locations in certain districts; but because of their actual or potential impacts on neighboring uses or public facilities, there is a need to carefully regulate them with respect to their location for the protection of the community. These uses, due to their peculiar locational need or the nature of the service offered may have to be established in a district where they cannot be reasonably allowed as a permitted use.

#### **XIII – 1.02. Authority.**

The Commission shall have the sole power to approve or disapprove all special land uses. In consideration of all applications for special land use, the Commission shall review each case individually as to its appropriateness and consider the following standards as it relates to the proposed land use. Such uses shall be subject to conditions, restrictions, and safeguards deemed necessary to the interest of public health, safety, and welfare.

### Section 2. Submission Requirements.

#### **XIII – 2.01. Fee Required.**

A fee for services shall be charged. All fees for special land use requests shall be established by resolution of the Common Council during the adoption of the annual budget and which shall be paid when the application for special land use approval is filed.

#### **XIII – 2.02. Application.**

An application for the approval of a special land use shall be made by an owner, lessee, or other person with a legal interest in the property and who has the owner's consent to file the application. The application form shall contain such information as the Building Code Official or Plan Commission may require. The necessary fees shall accompany such application. The applicant shall also submit a color photograph of the site and existing front elevation for each special land use request submitted to the City for review. Such photographs shall be submitted with the application. With the application, the applicant shall submit the requisite number of folded site plans as required by this Ordinance. The application shall not be considered received by the City until all required application conditions are met.

#### **XIII – 2.03. Notification Required.**

*2.03.1. Process.* Upon receipt of an application for a special land use, one notice that a request for special land use has been received shall be published in a newspaper of general circulation in the City and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet, except that the notice shall be given not less than five and not more than 15 days before the application shall be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a

structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units, or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

2.03.2. *Content.* The notice shall describe the nature of the special land use request; indicate the property that is the subject of the special land use request; state when and where the special land use request shall be considered; indicate when and where written comments shall be received concerning the request; indicate that a public hearing on the special land use request may be requested by a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special use.

### **XIII – 2.04. Request for Public Hearing.**

At the initiative of the Commission, upon the request of the applicant for special land use authorization, or upon the request of a property owner of a structure located within 300 feet of the boundary of the property being considered for a special land use, a public hearing with notification as required for a notice of a request for special land use approval as prescribed above shall be held before a decision is made on the special land use request, which request is based on discretionary grounds. If the applicant or the Commission requests a public hearing, only notification of the public hearing need be made. A decision on a special land use request which is based on discretionary grounds shall not be made unless notification of the request for special land use or notification of a public hearing on a special land use request is given as required by this section.

### Section 3. Standards.

#### **XIII – 3.01. General Standards.**

The following general standards shall be applied by the Commission to all special land use requests:

- a. The proposed special land use shall be of such location, size, and character that it shall be in harmony with the appropriate and orderly development of the surrounding neighborhood and vicinity and applicable regulations of the zoning district (including but not limited to any applicable performance standards) in which it is to be located.
- b. The proposed use shall be of a nature that shall make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relations to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking, and provisions for pedestrian traffic, with particular attention to minimizing child-vehicle interfacing.
- c. The proposed use shall be designed as to the location, size, intensity, site layout, and periods of operation of any such proposed use to eliminate any possible nuisance emanating therefrom which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke, or lights.
- d. The proposed use shall be such that the proposed location and height of buildings or structures and location, nature, and height of walls, fences, and landscaping shall not

interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

- e. The proposed use shall relate harmoniously with the physical and economic aspects of adjacent land uses.
- f. The proposed use offers a service or benefit for the public convenience at the proposed location.
- g. The proposed use is so designed, located, planned, and to be operated that the public health, safety, and welfare shall be protected.
- h. The proposed use shall not be detrimental or injurious to the neighborhood within which it is to be located, nor shall such use operate as a deterrent to future land uses permitted within the zoning district, and shall be in harmony with the general purpose and intent of this Ordinance.

### **XIII – 3.02. Eligible Uses and Activities.**

The following additional standards shall be applied by the Commission to uses if authorized as a special land use in a district:

- a. Apartment houses in the R district shall not be permitted to have more than six dwelling units.
- b. Automotive self-service stations shall be permitted if the combined number of automotive-self service stations and automotive service stations within the City does not exceed five, and the use shall be on a lot that had a legal automotive self-service or service station within the year previous to its future use. Automotive self-service stations shall not abut a residential use.
- c. Automotive service stations shall be permitted if the combined number of automotive-self service stations and automotive service stations within the City does not exceed five, and the use shall be on a lot that had a legal automotive self-service or service station within the year previous to its future use. Automotive service stations shall not abut a residential use.
- d. Bars with a Class C liquor license without a dance/entertainment permit shall be permitted in the R district if such bar is not less than 800 feet away from public owned and operated parks, recreation centers, swimming pools, and playgrounds, public governmental services such as administrative facilities, police and fire stations, libraries, schools and colleges, parochial, private, or charter elementary, junior high, and high schools, religious, cultural, and fraternal activities, congregate residences, and state licensed residential facilities, and any other establishment holding Class C liquor licenses.
- e. Boarding houses in R districts shall be permitted if there is one on-site parking location per each rented unit and that a boarding house shall have no more than four rented units.
- f. Confectioneries and delicatessens shall be permitted in the R district if its gross floor area does not exceed 800 square feet.
- g. Family and group day care centers and state licensed residential facilities shall be permitted if there are no dormitory facilities on the premises, the outdoor play area is fenced in or screened by a heavily planted greenbelt from any abutting residential use, and that for each child cared for, there shall be provided, equipped, and maintained on the premises a minimum of 150 square feet of useable outdoor play area with a minimum total area of fifteen hundred square feet per facility, such facility shall be no closer than 1,000 feet from a similar facility.

- h. Grocery stores without a SDM liquor license shall be permitted in the R district if the gross floor area does not exceed 800 square feet.
- i. Light manufacturing uses shall not be directly adjacent to a residential use in a C2 district.
- j. Medical and dental clinics shall only be permitted in the R district in buildings that are not less than three stories high.
- k. Mortuary and funeral homes in the R district shall be permitted if it is within 500 feet of a religious institution.
- l. Open storage yards of construction contractor's equipment and supplies, building materials, sand, gravel, or lumber, if such use is located not less than two hundred feet from any R or RM district.
- m. Parking lots cannot abut a residential use, be greater than sixty feet wide, or no two parking lots may abut each other.
- n. Towers in the I district shall be setback, from the nearest building not associated with the tower directly, one foot for every one foot in height of the tower.
- o. Townhouses in a residential district shall not be required to have front or side yard setbacks, and townhouses shall not be bordered on each end by single- or two-family dwellings.

Section 4. Powers and Duties of the Commission.

**XIII – 4.01. Conditions.**

The Commission, before approving a special land use request, shall determine that the conditions set for the special land use have been satisfied unless the Board has granted a variance for such conditions. The Commission may deny, approve, or approve with conditions, requests for a special land use. The Commission may impose such conditions or limitations in granting approval as may be permitted by state law and this Ordinance if the Commission deems conditions necessary to fulfill the spirit or purpose of this Ordinance. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Commission and the landowner. The Commission shall maintain a record of changes granted in conditions. The conditions may include, conditions necessary to ensure that public services and facilities affected by a proposed land use or activity shall be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment, to conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:

- a. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who shall use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole;
- b. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity;
- c. Be necessary to meet the intent and purpose of the zoning regulations, be related to the standards established in this Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

### **XIII – 4.02. Decision.**

- 4.02.1. *General.* The Commission shall deny, approve, or approve with conditions requests for a special land use. The Commission shall approve the any special land use request when the applicant demonstrates that all of the standards contained in this Ordinance have been met. The basis of a decision for 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 of the decision, and any condition imposed. Any changes in the conditions shall be filed with the Wayne County Register of Deeds as provided herein.
- 4.02.2. *Approval.* If the particular special land use is in compliance with the standards set forth in this Ordinance, the requirements specific to the particular zoning district in which the special land use is proposed, and the conditions imposed under this Ordinance, the special land use request shall be approved. Upon approval of a special land use, the applicant shall submit a site plan under this Ordinance. Subsequent amendments to an approved site plan for a special land use shall not require Commission approval unless the amendments significantly impact factors considered by the Commission in approving the special land use, as determined by the Building Code Official. Thereafter, the Building Code Official shall issue a building permit in conformity with the particular special land use so approved. In all cases where a particular special land use has been granted as provided herein, application for a building permit in pursuance thereof shall be made and received by the City not later than one year thereafter or such approval shall automatically be revoked. The Building Code Official may grant an extension thereof for good cause shown under such terms and conditions and for such period of time not exceeding six months as he shall determine to be necessary and appropriate. Any special land use that is discontinued or abandoned for a period exceeding one year shall have its approval revoked. No special land use approval shall be effective until a notice of such approval, including all applicable conditions, are filed with the Wayne County Register of Deeds. Any subsequent changes to a special land use shall also be filed with the Wayne County Register of Deeds.
- 4.02.3. *Denial.* If the Commission shall determine that the particular special land use(s) requested does not meet the standards of this Ordinance or otherwise shall tend to be injurious to the public health, safety, welfare or orderly development of the City, the Commission shall deny the application in writing which clearly sets forth the reason(s) for such denial in its minutes.
- 4.02.4. *Appeal.* Any person who is denied a special land use request by the Commission may appeal the decision to the Board. In hearing the appeal, the Board shall examine the record of the Commission and determine if the Commission properly applied the conditions established by this Ordinance. If the Board determines that the Commission properly applied the conditions established by this Ordinance, then the Board shall uphold the decision of the Commission. If the Board determines that the Commission failed to properly apply the conditions established by this Ordinance, then the Board shall so state the perceived deficiency and remand the request to the Commission for further examination.

## ARTICLE XIV. ZONING CHANGES AND AMENDMENTS.

### Section 1. Code Official to Process.

#### **XIV – 1.01. General.**

All requests for amendments or changes to the comprehensive plan, this Ordinance, or Map shall be submitted to the code official for processing.

#### **XIV – 1.02. Rezoning Upon Request.**

A property owner may request the Commission to recommend the rezoning of his parcel. The request shall be filed with the code official along with any other documentation that the Commission or the code official deems necessary. The Common Council shall by resolution establish a fee for a rezoning request during the adoption of the annual budget, which shall be paid at the time the rezoning request is filed. The Commission shall consider the rezoning request as a normal amendment to this Ordinance.

### Section 2. Plan Commission to Review.

The Common Council shall not amend this Ordinance or Map until the proposed amendment has been submitted to the Plan Commission, which has held not less than one public hearing and made report thereon. Following the public hearing by the Commission and upon the Common Council's receipt of the Commission's report, the Common Council may adopt the ordinance and maps with or without amendments or refer the ordinance and maps again to the Commission for further report.

### Section 3. Public Hearing Procedure.

Not less than fifteen days' notice of the time and place of the public hearing shall first be published in a newspaper of general circulation. Not less than fifteen days' notice of the time and place of the public hearing shall be given by mail to each public utility company and each railroad company owning or operating any public utility or railroad within the zones affected and the airport manager of each airport that registers its name and mailing address with the city clerk for the purpose of receiving the notice. If an individual property or several adjacent properties are proposed for rezoning, notice of the proposed rezoning and hearing shall be given to the owners of the property in question not less than fifteen days before the hearing. An affidavit of mailing shall be maintained. A hearing shall be granted to an interested person at the time and place specified on the notice.

### Section 4. Effect of Protest to Proposed Amendment.

Upon presentation of a protest petition meeting the requirements of this subsection, an amendment to this Ordinance that is the object of the petition shall be passed only by a two-thirds vote of the Common Council. The protest petition shall be presented to the Common Council before final legislative action on the amendment and shall be signed by one of the following:

- a. The owners of not less than twenty percent (20%) of the area of land included in the proposed change.
- b. The owners of not less than twenty percent (20%) of the area of land included within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change.

Publicly owned land shall be excluded in calculating the twenty percent (20%) land area requirement.

## ARTICLE XV. VIOLATION, PENALTY, AND PUBLIC NUISANCES.

### Section 1. Violation of Law.

It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy, or maintain any building or land or cause or permit the aforementioned to be done in violation of this Ordinance. When any building or parcel of land regulated by this Ordinance is being used contrary to this Ordinance, the code official shall be permitted to order such use discontinued and the structure, parcel of land, or portion thereof, vacated by notice served on any person causing such use to be discontinued. Such person shall discontinue the use within the time prescribed by the code official after receipt of such notice to make the structure, parcel of land, or portion thereof, comply with the requirements of this Ordinance.

### Section 2. Nuisance Declaration.

Any building or structure which is erected, altered, or converted or any use of premises or land which is begun or changed after the time of passage of this Ordinance and in violation of any of the provisions thereof is declared to be a public nuisance per se and shall be abated by order of a court of competent jurisdiction.

### Section 3. Infraction Type.

#### **XV – 3.01. Municipal Civil Infraction.**

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance shall be punished for a municipal civil infraction. Each day that a violation continues shall constitute a separate offense.

#### **XV – 3.02. Misdemeanor.**

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance for any time after the second repeat offense (third offense), then such person shall be punished for a misdemeanor violation.

### Section 4. Sanctions.

The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as prescribed by resolution of the Common Council, plus any costs, damages, expenses, and other sanctions as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.

- a. Unless otherwise specifically prescribed for a particular municipal civil infraction violation by this Ordinance or any ordinance, the civil fine for a violation shall be not less than an amount prescribed by resolution of the Common Council, plus costs and other sanctions, for each infraction.
- b. Increased civil fines may be imposed for repeated violations of any requirement or provision of this Ordinance by a person. As used in this Section, “repeat offense” means a second municipal civil infraction violation of the same requirement or provision committed by a person within one year (unless some other period is specifically prescribed by this Ordinance) and for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically prescribed by this Ordinance for a particular municipal civil infraction violation, the increased fine for the first repeat

offense shall be not less than an amount prescribed by resolution of the Common Council, plus costs.

- c. Any person, firm, or corporation that violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance as any offense after a second repeat offense (third offense), shall be punished for each offense upon conviction, by a fine of not more than \$500.00, and costs of prosecution, or by imprisonment for a period not exceeding 90 days, or by both fine and imprisonment, in the discretion of the court. Each day that a violation continues shall constitute a separate offense.

## ARTICLE XVI, SEVERABILITY, SAVING CLAUSE, REPEALER, AND PUBLICATION.

### Section 1. Severability.

The invalidity of any clause, sentence, paragraph, or part of this Ordinance shall not affect the validity of the remaining parts of this Ordinance.

### Section 2. Saving Clause.

#### **XVI – 2.01. Prosecutions.**

A prosecution which is pending on the effective date of this Ordinance or any subsequent amendment and which arose from a violation of an ordinance repealed by this Ordinance, or a prosecution which is started within one (1) year after the effective date of this Ordinance or any subsequent amendment arising from a violation of an ordinance repealed by this Ordinance and which was committed before the effective date of this Ordinance or any subsequent amendment, shall be tried and determined exactly as if the ordinance had not been repealed.

#### **XVI – 2.02. Preliminary Site Plan Approval.**

If preliminary site plan approval granted under Ordinance No. 437 as amended is properly granted before the effective date of this Ordinance, nothing in this Ordinance shall be deemed to require any change in the planned or designed use of any such building, structure, or land if a building permit shall be applied for and granted within one year of the effective date of this Ordinance and such building shall be entirely completed for its planned or designed use within two years from the effective date of this Ordinance. Final site plan approval shall be granted under the procedure established by this Ordinance.

### Section 3. Repeal Clause.

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.



Section 4. Publication and Effective Date.

**XVI – 4.01. Publication.**

Following adoption of this Ordinance and subsequent amendments, one notice of adoption shall be published in a newspaper of general circulation in the City within fifteen days after adoption. In the first instance of adopting this Ordinance, the following statement shall be included: “A zoning ordinance regulating the development and use of land has been adopted by the Common Council of the City of Hamtramck.” In the case of an amendment to this Ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment shall be published. The notice of adoption shall include the effective date of the ordinance, and the time and place where a copy of the ordinance may be purchased or inspected. The filing and publication requirement contained herein shall supercede any charter provisions relating to the filing and publication of city ordinances (MCL 125.584(8)).

**XVI – 4.02. Effective Date.**

This Ordinance is effective twenty days after publication of this Ordinance.

ORDINANCE #497

Enacted: February 3, 2004  
Published: February 12, 2004

AMENDED BY ORDINANCE #523

Enacted: June 13, 2006  
Published: June 21, 2006

AMENDED BY ORDINANCE #2011-7

Enacted: December 13, 2011  
Published: December 23, 2011

AMENDED BY ORDINANCE #2019-02

Enacted: October 8, 2019  
Published: November 26, 2019

Table of Parking Requirements (Appendix B)

<b>Use</b>	<b>Spots</b>	<b>Standard</b>	<b>Exception</b>
automotive self-service station, service station, repair shop	2	per service stall	
automotive self-service station, service station, repair shop	2	per pump (includes the pump)	
bar with dance entertainment permit, over 3,600 square feet	1	per two people of maximum capacity	
car wash (automatic)	1	per employee	
car wash (self-service)	2	per stall (includes stall)	
dwelling unit	1	per dwelling unit	
financial institutions	2	per drive up windows (includes the window)	
financial institutions	1	per 300 square feet of gross floor area	
hotels/motels	1	per guest room	
hotels/motels	1	per 500 square feet of common area	
industrial/manufacturing/research/warehousing establishment	1	per 500 square feet of gross floor area	C2
laundromat	2	per set washer/dryer	
medical/dental office	1	per 200 square feet of gross floor area	C2
mortuary/funeral home	1	per 50 square feet of gross floor area	
newly constructed professional office/personal service over 3,600 square feet	1	per 1,000 square feet of gross floor area	
religious cultural, and fraternal activities	1	per every two seats based on maximum seating capacity	
religious cultural, and fraternal activities	1	per every fifty-four inches of bench seating	
schools (all)	1	per faculty member	
schools with assembly halls	1	per every two seats based on maximum seating capacity	
theatres, assembly halls over 5,000 square feet	1	per every two seats based on maximum seating capacity	
No parking requirements for the Central Business District for any use			