ZONING ORDINANCE
CITY OF MIDLAND, MICHIGAN

PREAMBLE

An ordinance established under Act 207, Public Acts of 1921, as amended, governing the City of Midland, to provide for the establishment of zoning districts within which the purpose use of land and natural resources may be encouraged and regulated; to provide for the location, the size, and uses that may be made of the minimum open spaces; to provide for sanitary, safety, and other protective measures; to provide for the maximum number of families that may be housed in dwellings, buildings, and structures; to provide for the administration and amendment of said ordinance; to provide for appeals and for the organization and procedures to be followed by the Zoning Board of Appeals; and to provide for the violation of said ordinance.

ARTICLE 1.00

INTENT AND SHORT TITLE

Section 1.01 -- SHORT TITLE

This ordinance shall be known and cited as the City of Midland Zoning Ordinance. Within the following text it may be referred to as the Ordinance or the Zoning Ordinance.

Section 1.02 B INTENT

It is the purpose of this Zoning Ordinance to promote the public health, safety, comfort, convenience, and general welfare of the inhabitants of Midland by encouraging the use of lands and natural resources in accordance with their character, adaptability and suitability for particular purposes; to enhance social and economic stability; to prevent excessive concentration of population; to reduce hazards due to flooding; to conserve and stabilize the value of property; to provide adequate open space for light and air; to prevent fire and facilitate the fighting of fires; to allow for a variety of residential housing types and commercial and industrial land uses; to minimize congestion on the public streets and highways; to facilitate adequate and economical provision of transportation, sewerage and drainage, water supply and distribution, and educational and recreational facilities; to establish standards for physical development in accordance with the objectives and policies contained in the Master Plan (Comprehensive Development Plan); and to provide for the administration and enforcement of such standards.

ARTICLE 2.00

RULES OF CONSTRUCTION AND DEFINITIONS

Section 2.01 -- RULES OF CONSTRUCTION

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

A. The specific shall control the general.

B. Words used in the present tense shall include the future.

C. Words used in the singular number shall include the plural and the plural shall include the singular, unless the context clearly indicates the contrary.

D. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

E. The masculine gender includes the feminine and neuter.

F. All measurements shall be to the nearest integer, unless otherwise specified herein.

G. The phrase "used for" includes "arranged for", "designed for", "intended for", "occupied for", and "maintained for".

H. The word "building" includes the word "structure". The word "build" includes the words "erect" and "construct". A "building" or "structure" includes any part thereof.

I. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any similar entity.

J. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as defined herein. Words or terms not herein defined shall have the meaning customarily assigned to them, or as found in the most recent available version of the American Heritage Dictionary.

K. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either/or", the conjunction shall be interpreted as follows:

   1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.

   2. "Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.

   3. "Either/or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.

L. Catch words and catch lines shall in no way by their presence or absence limit or affect the meaning of this Ordinance.

M. Unless the context clearly indicates to the contrary, where an illustration accompanies any item within this Ordinance, the written text shall have precedence over said illustrations.

N. Where a specific agency, department, law, or rule is referred to in this Ordinance, such reference shall include any successor agency, department, law or rule.

Section 2.02 -- DEFINITIONS

Whenever used in this Ordinance, the following words and phrases shall have the meaning ascribed to them in this Section:

ABANDONED BUILDING OR STRUCTURE: A building or structure which has been vacated as a result of the voluntary decision of the owner or holder to discontinue the previous use for six (6) months or more of that building or structure.

ABUTTING: Two or more uses, lots or parcels having a common border, or being separated from such a common border by a right-of-way, alley, or easement.

ACCESSORY BUILDING: A type of structure that:
a. has a roof which is supported by columns or walls,
b. is intended for the shelter or enclosure of persons, animals, goods or property, and
c. is further intended to be used in a manner that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same zoning lot as the principal use to which it is exclusively related.

Examples of accessory buildings include: garages, storage sheds, gazebos, play houses, and greenhouses.

ACCESSORY BUILDING, ATTACHED: An accessory building that is physically joined to the principal building by a wall, roof, rafter, or other structural component.

ACCESSORY STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location, and that is intended to be used in a manner that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same lot or parcel as the principal use to which it is exclusively related. Examples of accessory structures include: accessory buildings, swimming pools, generators, pump houses, dog houses, tennis courts and other sports courts.

ACCESSORY USE: A use that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same lot or parcel as the principal use to which it is exclusively related.

ACTIVITY CENTER FOR THE MENTALLY AND/OR PHYSICALLY CHALLENGED: A place for the supervision, training, or care of the mentally ill or handicapped.

ADJACENT: Lots are adjacent when at least one boundary line of one lot touches a boundary line or lines of another lot.

ADULT REGULATED USES: As used in this Ordinance, the following definitions shall apply to adult regulated uses:

a. **Adult Book or Supply Store:** An establishment having ten percent (10%) or more of all usable interior, retail, wholesale, or warehouse space devoted to the distribution, display, or storage of books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined herein),. Such establishment or the segment or section devoted to the sale or

display of such material in an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

b. **Cabaret:** An establishment which features any of the following: topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers, or topless and/or bottomless waitpersons or employees.

c. **Adult Motion Picture Theater or Adult Live Stage Performing Theater:** An enclosed building with a capacity of twenty-five (25) 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 herein) for observation by patrons therein. Such an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age. In accord with provisions of Michigan law, public nudity in these establishments is prohibited.

d. **Adult Model Studio:** Any place where models who display "Specified Anatomical Areas" (as defined herein) are present to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons who pay some form of consideration or gratuity. This definition shall not apply to any bona fide art school or similar educational institution or a professional photographic studio.

e. **Adult Motel:** A motel which rents rooms by the hour and presents visual displays, graphic materials, or activities that depict, describe or relate to “Specified Sexual Activities” or “Specified Anatomical Areas” (as defined herein).

f. **Adult Motion Picture Arcade:** Any place where motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images displayed depict, describe, or relate to "Specified Sexual Activities" or "Specified Anatomical Areas."

g. **Massage Parlor or Massage Establishment:** A place where manipulated massage or manipulated exercises are practiced for pay upon the human body by anyone using mechanical, therapeutic, or bathing devices or techniques, other than the following: a duly licensed physician, osteopath, or chiropractor; a registered or practical nurse operating under a physician's directions; myotherapy; or, registered physical or occupational therapists or speech pathologists who treat patients referred by a licensed physician and operate only under such physician's direction. A massage establishment may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, turkish bathhouses, and steam baths. Massage establishments, as defined herein, shall not include properly-licensed hospitals, medical clinics, or nursing homes, or beauty salons or barber shops in which massages are administered only to the scalp, the face, the neck, or the shoulders.

h. **Adult Outdoor Motion Picture Theater:** A drive-in theater 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 herein) for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

i. **Specified Anatomical Areas:** Portions of the human body defined as follows:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below the point immediately above the top of the areola, and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

j. **Specified Sexual Activities:** The explicit display of one or more of the following:

1. Human genitals in a state of sexual stimulation or arousal.
2. Acts of human masturbation, sexual intercourse, or sodomy.
3. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.

AGENT: Authorization provided by the principal naming agent to prove a proper agency and level of authority granted and signed by the principal. Examples include but are not limited to an affidavit, power of attorney, petition, etc.

AGRICULTURE: The art and science of cultivating the soil, producing crops or raising livestock, and the processing of crops or livestock, or milk produced on the same premises. Not included in this definition are riding stables, fur farms, hog or poultry farms using garbage as a principal source of feed, dairy processing operations, or the sale of nursery stock not produced on the premises.

AIRPORT: A cleared and leveled area where aircraft can take off and land. Airports may include hard-surfaced or grass landing strips, a control tower, hangars, passenger terminals, and accommodations for cargo.

AIRPORT OVERLAY ZONE: The overlay zone is the area within which the Tri-City Joint Airport Zoning Ordinance applies. This area is defined as all the lands within the City of Midland lying beneath the approach, transitional, 150' horizontal, conical and 500' horizontal surfaces, said land being located within a circle having a radius extending ten miles from the established center of the usable landing areas of Jack Barstow Airport. The boundaries of this surface are shown on the Tri-City Airport Joint Zoning Plans and in which the terms used in this definition are further defined.

ALLEY: A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on another street. An alley is not intended for general traffic circulation.

ALTERATION: Any construction or renovation to an existing structure other than repair or addition.

ANIMAL, DOMESTIC: Any animal normally and customarily kept by a domestic household for pleasure and companionship. Examples of domestic animals include domestic breeds of dogs, cats and animals confined to cages throughout their lifetime. A domestic animal excludes exotic, farm and service animals as defined by this ordinance.

ANIMAL, EXOTIC*:* Any of the following class or classes of animals; all marsupials (such as kangaroos and opossums); all non-human primates (such as gorillas and monkeys); all feline, except the domestic cat; all canine, except the domestic dog; all viverrine (such as mongooses and civets); all musteline (such as minks, weasels, otters and badgers but excluding a domesticated ferret); all ursine (bears); all ungulate artiodactyla and perissodactyla, except goats, sheep, pigs and cattle (such as deer, camels, hippopotamuses and elephants); all hyaena all pinniped (such as seals and walruses); all venomous snakes and all snakes of the families Boidae and Pythonidae; all venomous lizards; all ratite birds (such as ostriches); all diurnal and nocturnal raptorial birds (such as eagles, hawks and owls); all edentates (such as anteaters, sloths and armadillos); all bats; all crocodilian (such as alligators and crocodiles); and all venomous arachnids and spiders (such as tarantulas, scorpions and mites); all turtles in the families Chelydridae, Dermochelyidae, and Cheloniidae; wild or non-domesticated animals, whether or not raised or kept in captivity, and includes, but is not limited to, wolf, bobcat or mountain lion, fox, cougar, skunk, and all birds, the keeping of which is prohibited in the Migratory Birds Convention Act, 1994, c.22, and regulations thereto, and all animals, the keeping of which is prohibited in the Fish and Wildlife Conservation Act, 1997, c.41, and regulations .

ANIMAL, FARM: Any animal customarily found in farming operations such as but not limited to all breeds of horses, cows, goats, pheasants, chickens, ducks, geese, sheep, swine **(**per City ordinance #1711, Chapter 3 of the Code of Ordinances**)** or any other type of poultry or fowl or bees. A farm animal shall also include all animals classified as livestock by the State of Michigan. A farm animal shall not include fish.

ANIMAL HOSPITAL: See CLINIC, VETERINARY.

ANIMAL SHELTER: A building supported by a governmental unit or agency, or a nonprofit organization where dogs, cats, or other animals are kept because of requirements of local health officials, loss of owner, neglect, or violation of local ordinances or State statutes.

APARTMENT: See DWELLING, MULTIPLE-FAMILY.

ARCADE: Any establishment which provides on its premises three (3) or more machines which may be operated or used as a game, contest or for amusement of any description, not including devices used solely for playing music.

ARCHITECTURAL FEATURES: The features of a building, including cornices, eaves, gutters, belt courses, sills, lintels, chimneys, and decorative ornaments.

AUTOMOBILE. Unless specifically indicated otherwise, "automobile" shall mean any motorized vehicle including cars, trucks, vans, motorcycles, and other motorized vehicles that do not meet the definition of a **COMMERCIAL VEHICLE**.

AUTOMOBILE FILLING STATION: A place used for the retail sale and dispensing of fuel or lubricants together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Automobile filling stations may also incorporate a convenience store operation as an accessory use, provided it is clearly incidental to the filling station use, but no auto repairs shall be permitted.

AUTOMOBILE REPAIR: Major or minor repair of automobiles defined as follows:

a. **Minor Repair**: Engine tune-ups and servicing of brakes, air conditioning exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.

b. **Major Repair**: Engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rust proofing; and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the automobiles on the premises overnight.

AUTOMOBILE SERVICE STATION: A place where gasoline or other vehicle engine fuel, kerosene, motor oil and lubricants, and other commodities are sold directly to the public on the premises for the purposes of operation of motor vehicles, aircraft, or boat. A service station may include the sale of minor accessories (such as tires, batteries, brakes, shock absorbers, window glass), installation of equipment, minor repair, and temporary storage.

AUTOMOBILE REPAIR GARAGE: An enclosed building where minor and major automobile repair services may be carried out.

AUTOMOBILE OR VEHICLE DEALERSHIP: A building or premises used primarily for the sale of new and used automobiles and other motor vehicles.

AUTOMOBILE WASH OR CAR WASH ESTABLISHMENT: A commercial establishment contained within a building or premises or portion thereof where vehicles are washed.

BANQUET AND CONFERENCE/MEETING FACILITIES: Buildings or facilities used to conduct banquets, meetings, or conferences, which are not a restaurant, but where, for purposes of events which take place there, food and beverages may be served.

BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year - also known as the 100-year flood or 1 percent flood event.

BASEMENT: That portion of a building which is partially or totally below grade, where the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the ceiling. This definition shall not apply to earth-bermed or earth- sheltered homes.

BED-AND-BREAKFAST ESTABLISHMENT: A dwelling in which eight (8) or less sleeping rooms are provided or offered to transient guests as overnight accommodations, including provisions for a morning meal for overnight guests only, in return for compensation. May also be known as a "tourist home".

BEDROOM: A room in a dwelling unit that is intended to be used by human beings for sleeping purposes.

BERM: See LANDSCAPING.

BILLBOARD: See OFF-PREMISES SIGN in Section 2.03.

BLOCK: An area of land bounded by a street or by a combination of streets and public lands, rights-of-way, a waterway, boundary lines of the City, or any other barrier to the continuity of development.

BOARD OF APPEALS: The City of Midland Zoning Board of Appeals, created pursuant to the provisions of Michigan Public Act 207 of 1921, as amended.

BOARDING HOUSE: A building where meals, or lodging and meals, are provided for three (3) or more persons for compensation or by prearrangement for definite periods of time of not less than one (1) week. A boarding house is not the same as a hotel, motel, bed-and-breakfast establishment, convalescent home, or nursing home. Boarding House is defined in the Michigan Building Code.

BODY PIERCING: Means puncturing or penetration of the skin of a person using pre-sterilized single use needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening. Puncturing the outer perimeter or lobe of the ear using pre-sterilized single use stud and clasp ear piercing systems shall not be included in this definition.

BODY PIERCING ESTABLISHMENT: Any place or premise, whether public or private, temporary or permanent in nature or location, where the practice of body piercing, whether or not for profit, is performed.

BUILDABLE AREA: Generally, the area of a lot which is defined by the minimum setback requirements within which building construction is permitted by the terms of this Ordinance.

BUILDABLE AREA, NET: That portion of a site that is not encumbered by Michigan Department of Environmental Quality (MDEQ)-regulated wetlands (except as specifically noted), steep slopes, road rights-of-way, easements, structures or lots, or other existing or proposed features that would prevent construction of a building or use of the site for a use permitted in the district in which the site is located.

BUILDING: Any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, property, or materials of any kind. When any

portion thereof is completely separated from every other part by division walls without openings, extending from the ground up, each such portion shall be deemed a separate building. A building shall not include such structures as signs, fences, or smokestacks. Building is defined in the Michigan Building Code.

BUILDING, PRINCIPAL: A building or, where the context so indicates, a group of buildings which are permanently affixed to the land and which are built, used, designed or intended for the shelter or enclosure of the principal use of the parcel.

BUILDING, ACCESSORY: See ACCESSORY USE, BUILDING, OR STRUCTURE.

BUILDING, TEMPORARY: A building which is not permanently affixed to the property, and is permitted to exist for a specific reason for a specific period of time. An example of a temporary building is a trailer used on a construction site.

BUILDING ENVELOPE: See BUILDABLE AREA.

BUILDING HEIGHT: The vertical distance measured from the established grade to:

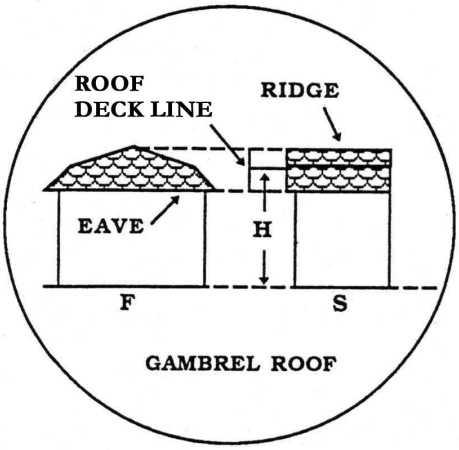
a. the highest point of the coping of a flat roof;
b. the deck line of a mansard roof; or,
c. the average height between the eaves and the ridge for a gable, hip, studio (shed), or gambrel roof;
d. seventy-five percent (75%) of the height of an A-frame.

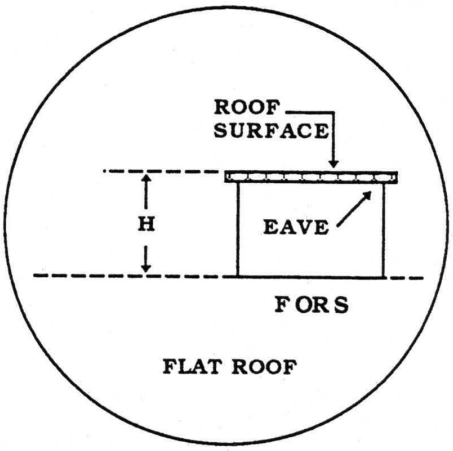
Where a building is located on sloping terrain, the height shall be computed using the average grade measured at the building wall on all four sides (see illustration on page 2-7).

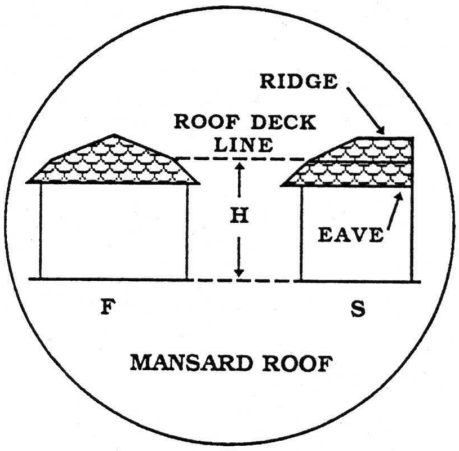
BUILDING LINE: A line that is parallel to the front street right of way line, between which line and the front street right-of-way line no part of a building shall project, except as otherwise provided by this ordinance (see illustration on page 2-8).

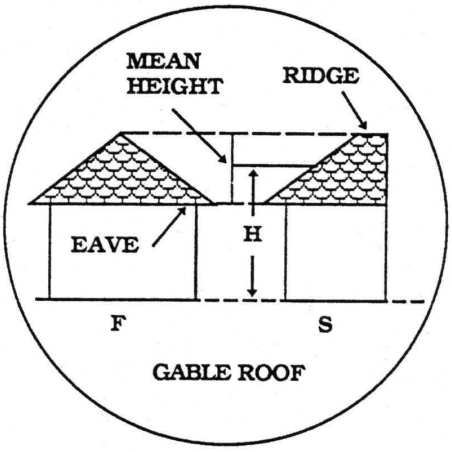
BUILDING OFFICIAL: The officer or other authority designated to administer and enforce the Building Code.

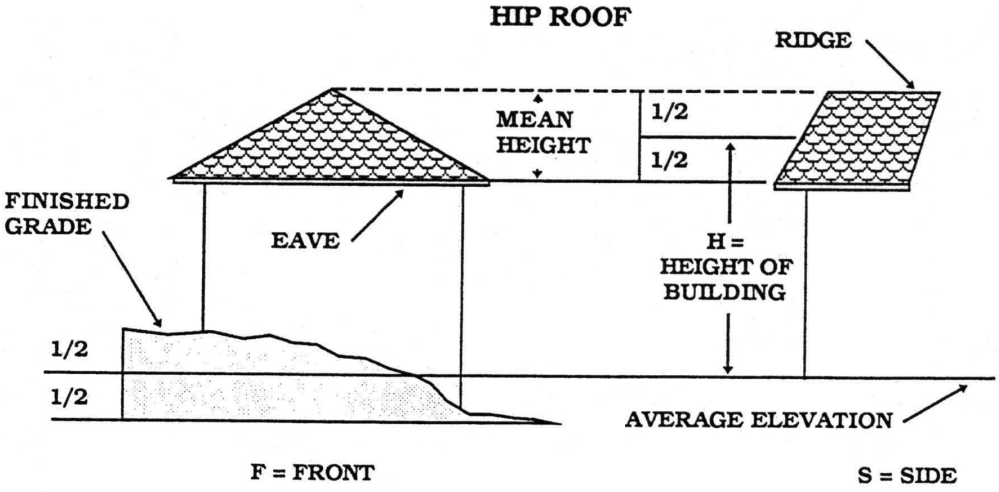
BUILDING HEIGHT

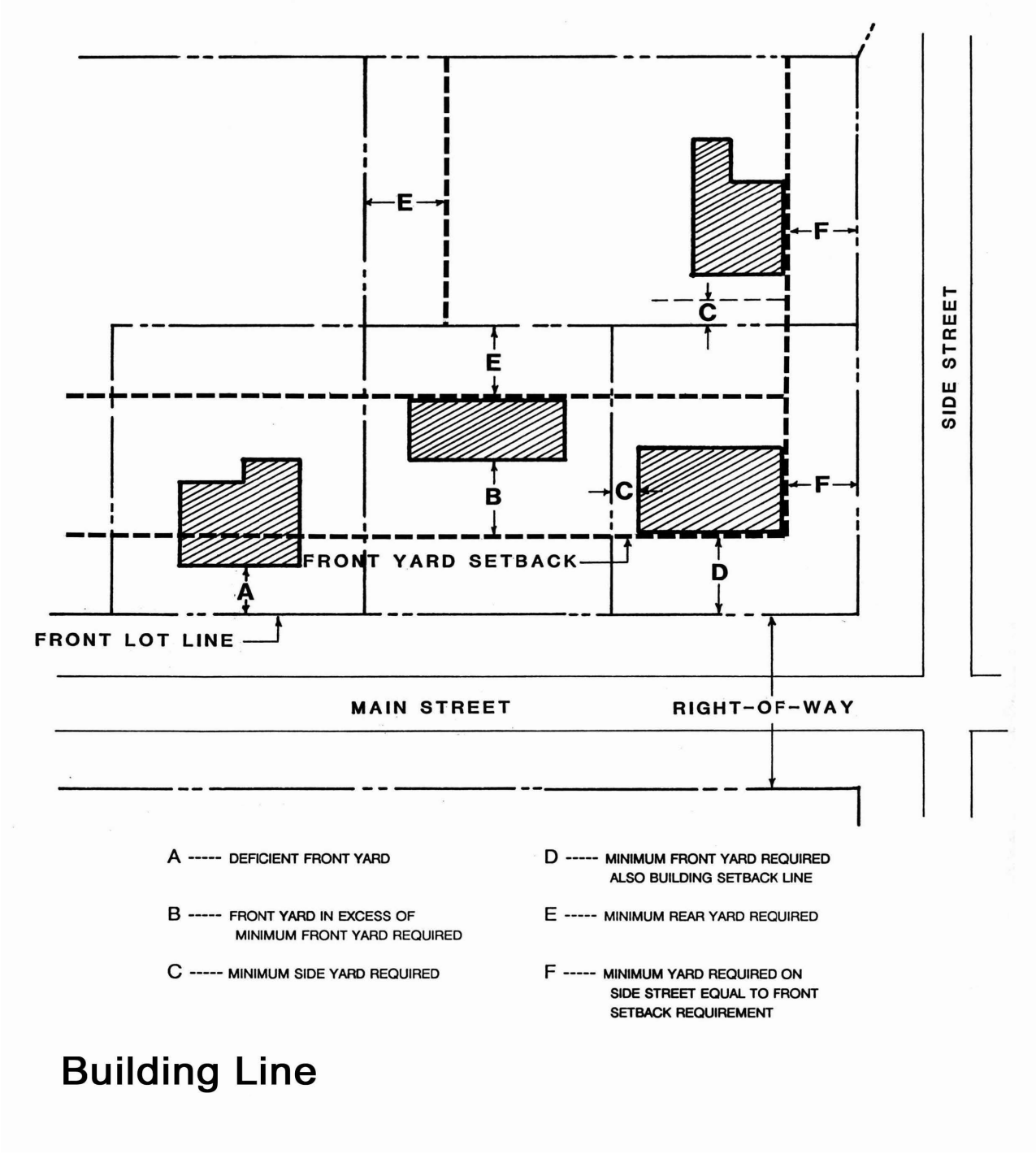












Building Line

BUILDING PERMIT: The written authority issued by the Building Official permitting the construction, removal, repair, moving, alteration, or use of a building in conformity with the provisions of this Ordinance.

BULK: The term used to indicate the size and setbacks of buildings and structures and the location of same with respect to one another, including standards for the height and area of buildings; the location of exterior walls in relation to lot lines, streets, and other buildings; gross floor area of buildings in relation to lot area; open space; and, the amount of lot area required for each dwelling unit.

CAR RENTAL ESTABLISHMENTS: A building or premises used primarily for the rental of automobiles and other motor vehicles.

CARPORT: A partially open structure, intended to shelter one (1) or more vehicles.

CEMETERY: Land used for the burial of the dead, including crematories, and mausoleums.

CHANGE OF USE: A use of a building, structure or parcel of land, or portion thereof which is different from the previous use in the way it is classified in this Ordinance.

CHARITABLE ORGANIZATION: Any person or organization that is both 1) established for any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental, conservation, civic, or other charitable purpose, and 2) determined by the Internal Revenue Service to be a tax exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code.

CHECK-CASHING ESTABLISHMENTS: Any building or portion thereof where check or money orders are cashed or money orders or wires are issued and these services are a significant part of the business (over twenty-five percent (25%) of the gross dollar volume of the business), excluding banks and savings and loan institutions, credit unions, or other banking organizations regulated by State or Federal law.

CHURCH: See PLACE OF WORSHIP.

CLINIC, MEDICAL: An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

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

CLUB or FRATERNAL ORGANIZATION: An organization of persons for special purposes or for the promulgation of sports, arts, science, agriculture, literature, politics, or similar activities, but not operated for profit or to espouse beliefs or further activity that is not in conformance with the Constitution of the United States or any laws or ordinances. The facilities owned or used by such organization may be referred to as a "club" in this Ordinance.

COLLEGE or UNIVERSITY: A school of higher learning, consisting of a building or buildings and other facilities for teaching and research, and that grants bachelor's, master's, and doctorate degrees.

COLOCATION: See WIRELESS, COLOCATION.

COMMERCIAL AMUSEMENT: A facility operated for profit which affords entertainment and recreation, such as pool halls, miniature golf, bowling lanes, indoor soccer, ice and roller hockey facilities.

COMMERCIAL BROADCASTING TRANSMITTING TOWER, RADIO AND TV: A tower used to transmit or receive electromagnetic waves for AM and FM radio and television, where such activity is undertaken for the purpose of generating income.

COMMERCIAL GARAGE: See AUTOMOBILE REPAIR GARAGE.

COMMERCIAL USE: The use of property in connection with the purchase, retail sale, barter, display or exchange of goods, wares, merchandise or personal services directly to the consumer; the maintenance of office, or, recreational or amusement enterprises. As used in this Ordinance "commercial use" shall not include industrial, manufacturing, or wholesale businesses.

COMMISSION or PLANNING COMMISSION: The Planning Commission of the City of Midland.

CONDITIONAL LAND USE: Uses, either public or private, which possess unique characteristics and therefore cannot without the benefit of a conditional land use permit be considered a permitted use by right in a particular zoning district or districts. After due consideration of the impact of each such proposed use upon the neighboring land and of the public need for the particular use at the proposed location, such conditional land uses may be permitted following review and approval subject to the terms of this Ordinance.

CONDOMINIUM: A system of separate ownership of individual units in multi-unit projects. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners. For the purposes of this Ordinance, condominium terms shall be defined as follows:

a. **Condominium Act:** Shall mean Public Act 59 of 1978, as amended.

b. **Condominium, Commercial:** A building, or group of buildings, used for office, business, professional services, research, and other commercial enterprise, owned and maintained as a condominium.

c. **Condominium, Industrial:** An industrial building, or group of buildings, organized, owned and maintained as a condominium.

d. **Condominium Lot:** That portion of a site condominium project designed and intended to function similar to a platted subdivision lot for purposes of determining minimum yard setback requirements and other requirements set forth in the Schedule of Regulations (Article 26.00).

e. **Condominium Subdivision Plan:** Drawings and information which show the size, location, area, and boundaries of each condominium unit, building locations, the nature, location, and approximate size of common elements, and other information required by Section 66 of Michigan Public Act 59 of 1978, as amended.

f. **Condominium Unit:** That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed for the condominium project. A condominium unit is not a lot or condominium lot as those terms are used in this Ordinance.

g. **Common Elements:** Portions of the condominium project other than the condominium units.

h. **Detached Condominium:** A condominium project of detached units designed to be similar in appearance to a conventional single family subdivision, except that limited common areas are not arranged in such a manner as to create clearly defined condominium lots.

i. **General Common Elements:** Common elements other than the limited common elements, intended for the common use of all co-owners.

j. **Limited Common Elements:** Portions of the common elements reserved in the master deed for the exclusive use of less than all co-owners.

k. **Master Deed:** The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan.

l. **Site Condominium Project:** A condominium project designed to function as an alternative to, but in a similar manner as a platted subdivision. A site condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in this Ordinance.

CONGREGATE HOUSING: See HOUSING FOR THE ELDERLY.

CONSERVATION EASEMENT: A legal agreement in which the landowner retains ownership of private property, but conveys certain specifically identified rights to a land conservation organization, charitable or educational organization, corporation, trust, governmental entity, or other legal entity.

CONTIGUOUS LOT: See LOT, CONTIGUOUS.

CONTRACTOR'S YARD: A site on which a building or construction contractor stores equipment, tools, vehicles, building materials, and other appurtenances used in or associated with building or construction. A contractor's yard may include outdoor or indoor storage, or a combination of both.

CONVALESCENT HOME: See NURSING HOME.

CONVENIENCE STORE: A retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase a relatively few items (in contrast to a "supermarket"). Convenience stores are designed to attract a large volume of stop-and-go traffic.

CO-OP (COOPERATIVE) HOUSING: See DWELLING, MULTIPLE FAMILY

CORNER LOT: See LOT, CORNER.

CORRECTIONAL FACILITY: A facility that is operated by a local unit of government for the detention of persons charged with, or convicted of, criminal offenses or ordinance violations; persons found guilty of civil or criminal contempt; or a facility which houses prisoners for not more than one (1) year.

COUNCIL or CITY COUNCIL: The City Council of the City of Midland.

CURB CUT: The entrance to or exit from a property provided for vehicular traffic to or from a public or private road or highway.

DAY SHELTER: A facility and associated administrative functions providing temporary daytime shelter for one or more individuals who are otherwise temporarily or permanently homeless. Day Shelters may include provision of food, clothing and support services such as counseling, education and transportation. A Day Shelter does not include overnight stay. This definition includes soup kitchens, missions, religious organizations and other organizations offering similar services.

DECK: A platform, commonly constructed of wood or recycled plastic, which is typically attached to a house, and which is typically used for outdoor leisure activities. Also see PATIO.

DENSITY: The number of dwelling units per acre of land.

a. **Gross Density:** The number of units per acre of total land being developed.

b. **Net Density:** The number of units per acre of land devoted to residential use, exclusive of road rights-of-way, parks, utility easements (if the easements are not useable for recreation purposes), and other areas not used for residential purposes.

DETENTION BASIN: A man-made or natural water collection facility designed to restrict the flow of stormwater to a prescribed maximum rate, and to concurrently detain the excess waters that accumulate behind the outlet.

DEVELOPMENT: The construction of a new building, reconstruction of an existing building, improvement of a structure on a parcel or lot, the relocation of an existing building to another lot, or the improvement of open land for a new use.

DIMENSIONAL NONCONFORMITY: See NONCONFORMITY, DIMENSIONAL.

DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT: The staff planner designated by the City Council to advise the City administration, City Council, and Planning Commission on planning, zoning, land use, subdivision, housing and other related planning and development matters.
DISABLED*:* Having a physical and/or mental condition that limits movements, senses, or activities.

DISPATCH CENTER*:* A place from which tow trucks are sent out on call. This may be a stand-alone operation or in conjunction with a service station or other vehicle repair operation.

DISTRIBUTION CENTER: A use which typically involves both warehouse and office/administration functions, where short and/or long term storage takes place in connection with the distribution operations of a wholesale or retail supply business.

DISTRICT, ZONING: A portion of the city within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas, and other requirements are established.

DOUBLE FRONTAGE LOT: See LOT, DOUBLE FRONTAGE or THROUGH.

DRIVE-UP: A business establishment so designed that its operation involves providing service to patrons while they are in their car, rather than within a building or structure.

DRIVEWAY: A private lane designed primarily for use by vehicles that connects a single building lot or parcel with a street.

DRIVEWAY, COMMERCIAL: Any vehicular access except those serving one (1) or two (2) dwelling units or an essential public service use, building or structure.

DUPLEX: See DWELLING, TWO FAMILY or DUPLEX.

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

DWELLING, MANUFACTURED: A building or portion of a building designed for long-term residential use and characterized by all of the following:

a. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and

b. The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities; and

c. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on the site.

DWELLING, MOBILE HOME: A type of manufactured housing that is transportable in one (1) or more sections, that is built upon a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes plumbing, heating, air-conditioning, and electrical systems contained in the structure. Recreational vehicles as described and regulated herein shall not be considered "mobile homes" for the purposes of this Ordinance.

DWELLING, MULTIPLE-FAMILY: A building designed for and occupied by three (3) or more families living independently, with separate housekeeping, cooking, and bathroom facilities for each. Examples of multiple-family dwellings units include those commonly known as apartments which are defined as follows:

a. **Apartment:** An apartment is an attached dwelling unit with a party wall contained in a building with other apartment units which are commonly reached off of a common stair landing or walkway. Apartments are typically rented by the occupants. Apartment buildings often may have a central heating system and other central utility connections. Apartments are also commonly known as garden apartments or flats. An apartment house is a residential structure containing three (3) or more attached apartments.

b. **Efficiency Unit:** An efficiency unit is a type of multiple-family or apartment unit consisting of one (1) principal room, plus bathroom and kitchen facilities, hallways, closets, and/or a dining alcove located directly off the principal room.

c. **Co-op (Cooperative) Housing:** A multiple unit dwelling owned by a corporation which leases its units to stockholders on a proprietary lease arrangement.

DWELLING, ONE-FAMILY OR SINGLE-FAMILY: An independent, detached residential dwelling designed for and used or held ready for use by one (1) family only. A single-family dwelling is commonly the only principal use on a parcel or lot.

DWELLING, TWO-FAMILY OR DUPLEX: A detached building, designed exclusively for and occupied by two (2) families living independently of each other, with separate housekeeping, cooking, storage, and bathroom facilities for each and with separate entrances. Also known as a duplex dwelling.

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.

DWELLING UNIT, SINGLE-FAMILY ATTACHED OR TOWNHOUSE: A townhouse is an attached single-family dwelling unit, not more than two and a half (2 ½) stories in height, with party walls, designed as part of a series of three (3) or more dwellings, with its own front and rear entrance. It has a front entrance that opens to the outdoors at ground level. Townhouses are sometimes known as row houses.

EARTH-SHELTERED HOME: A complete building partially below grade that is designed to conserve energy and is intended to be used as a single-family dwelling.

EASEMENT: A legal agreement that conveys the right of a specific non-owner to use part of a parcel of land for a specific purpose. Typical easements include the right of the owner of a piece of land with no public road frontage to use a specific strip of another person's land to reach the public street (e.g. a private road easement) or the right of the City to run a water main or sewer main across a specific strip of an owner's land.

ENGINEER, CITY: The City Engineer is the person or firm designated by the City Council to advise the City administration, City Council, and Planning Commission on drainage, grading, paving, storm water management and control utilities, and other related site engineering and civil engineering issues.

ENFORCEMENT OFFICIAL: The Enforcement Official is the person or persons designated by the City as being responsible for enforcing and administering requirements of this Zoning Ordinance. Throughout this Ordinance the Enforcement Official may be referred to as the Planning Official, Public Safety Official, Engineering Official or their agents. Such titles do not necessarily refer to a specific individual, but generally the office or department most commonly associated with the administration of the regulation being referenced.

ERECTED: Any physical change on a site, including construction, reconstruction, or alteration of buildings or structures thereon. Excavation, fill drainage, and the like shall be considered part of erection.

ESSENTIAL SERVICES: The term "essential services" shall mean the erection, construction, alteration or maintenance and operation by public or quasi-public utilities or municipal departments or commissions of underground, surface or overhead gas, steam, electrical fuel or water systems for the purposes of transmission, distribution, collection, communication, supply, or disposal; including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, and welfare of the public. Essential services shall not include storage yards, sales or business offices, or commercial buildings or activities, school bus yards, cellular telephone towers and support equipment, and commercial reception or transmitting communication towers and support equipment.

EXCAVATION: The removal or movement of soil sand, stone, gravel or fill dirt except for common household gardening, farming, and general ground care.

EXCEPTION: An exclusion from the normal Zoning Ordinance rules and regulations for the purposes of permitting particular uses or structures which are considered essential or appropriate in certain

locations or under certain conditions. A variance is not required for uses or structures which are permitted because of an exception.

FAÇADE: The exterior side of a building which faces and is more nearly parallel to, a public or private street. The façade shall include the entire building walls, including wall faces, parapets, facia, windows and doors. An individual façade is defined by a change in depth or wall treatment.

FAMILY: Means either of the following:

1. A domestic family, that is, one or more persons living together and related by the bonds of consanguinity, marriage, or adoption, together with servants of the principal occupants and not more than one additional unrelated person, with all of such individuals being domiciled together as a single, domestic, housekeeping unit in a dwelling.

2. The functional equivalent of the domestic family, that is, persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family shall be cooking and otherwise housekeeping as a single, nonprofit unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration. There shall be a rebuttable presumption enforceable by the Zoning Enforcement Officer in the first instance that the number of persons who may reside as a functional equivalent family shall be limited to four (4). Such presumption may be rebutted by application to the Planning Commission for a conditional land use based upon the applicable standards in this Ordinance.

FENCE: An artificially constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials, used to prevent or control entrance, confine within, or mark a boundary. For the purposes of this ordinance, a fence is not considered an accessory structure.

FILL, FILLING: The deposit or dumping of any matter onto or into the ground, except for common household gardening, farming, and general ground care.

FINISHED GRADE: See GRADE.

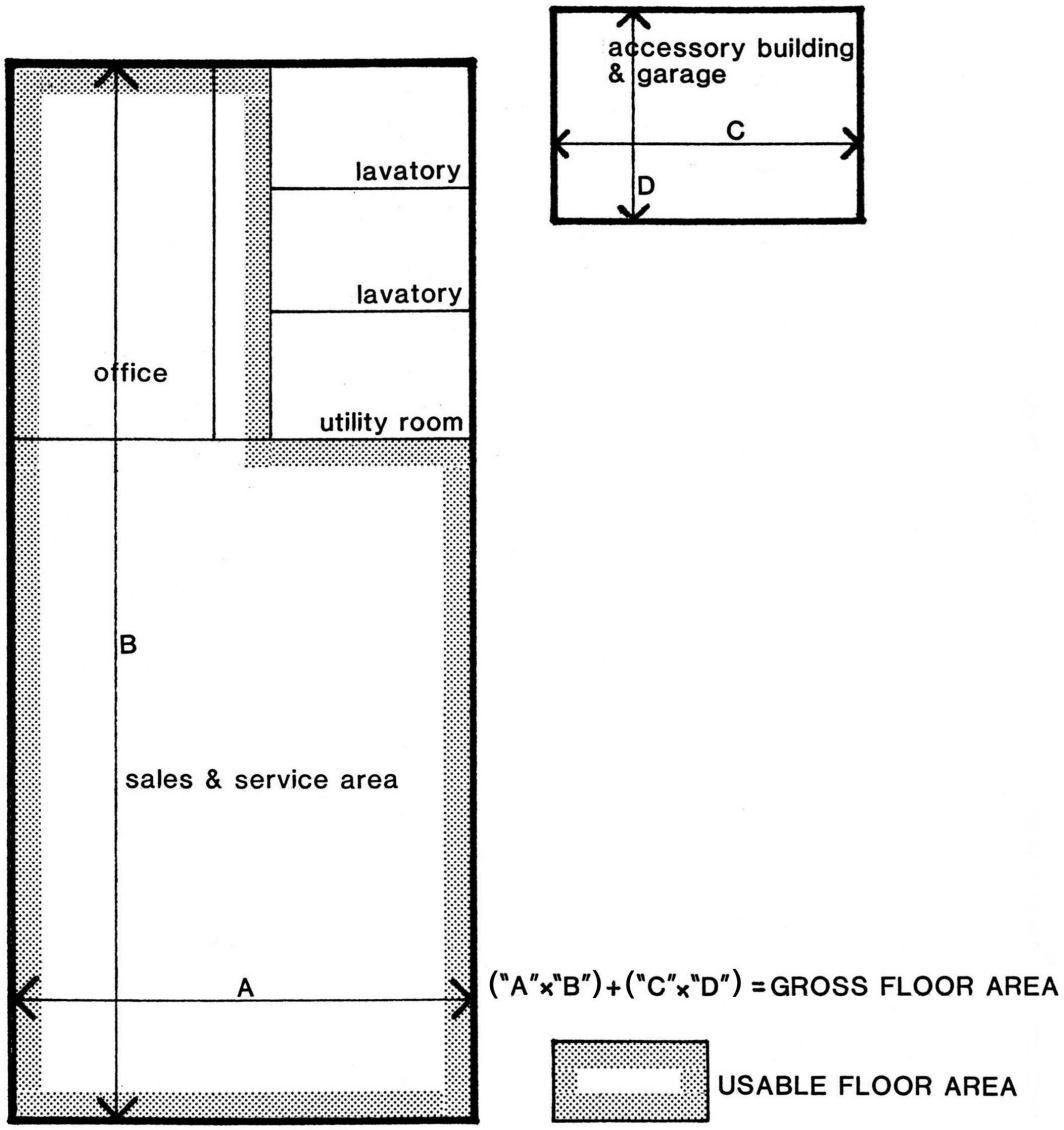
FLAG LOT: See LOT, FLAG.

FLOOR AREA, GROSS: The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns, or other features. In the case of a building not provided with surrounding exterior walls, the floor area shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

FLOOR AREA, NET: See FLOOR AREA, USABLE RESIDENTIAL, and FLOOR AREA, USABLE NONRESIDENTIAL.

FLOOR AREA, USABLE RESIDENTIAL: The gross floor area minus areas in basements, unfinished attics, attached garages, and enclosed or unenclosed porches.

FLOOR AREA, USABLE NONRESIDENTIAL: The sum of the horizontal areas of each floor, measured from the interior faces of the exterior walls, including all areas used for, intended to be used for, and accessible for the sale of merchandise, provision of services, or service to patrons, clients or customers. Floor area which is used for or intended to be used for the storage or processing of merchandise or for utilities shall be excluded from the computations of Usable Nonresidential Floor Area (see illustration on page 2-16).



Floor Area Terminology

FLOOR AREA OF COMMERCIAL, OFFICE AND SIMILAR NON-RESIDENTIAL USES

FOSTER CARE FACILITY: See RESIDENTIAL CARE FACILITIES.

FRATERNAL ORGANIZATION: See CLUB.

FRONTAGE: See LOT FRONTAGE.

FRONTAGE, BUILDING: The length of an outside building wall fronting a public right-of-way or private street.

GAMBLING ESTABLISHMENTS: Any premises wherein or whereon gaming is done; for the purpose of this Ordinance, a building or structure and any part of which is used or intended to be use for the purposes of dealing, operating, maintaining, conducting or exposing for pay of any game. Included in this definition are charitable organizations and facilities licensed to conduct games of chance.

GARAGE, PRIVATE: An accessory building for parking or storage of motor vehicles owned and used by the occupants of the building to which it is accessory. Private garages shall not house a home occupation. A private garage may be either attached to or detached from the principal structure.

GARAGE, PUBLIC: See AUTOMOBILE REPAIR GARAGE.

GASOLINE SERVICE STATION: See AUTOMOBILE FILLING STATION and AUTOMOBILE SERVICE STATION.

GOLF COURSE OR COUNTRY CLUB: The premises upon which the game of golf is played, including clubhouses, parking lots, swimming pools, tennis courts, or other facilities or uses customarily incidental to a golf course or country club.

GRADE: The ground elevation established for the purpose of regulating the number of stories or height of a building. "Finished grade" is the elevation of the surface of the ground after development, filling, or excavation. The building grade shall be the level of the ground adjacent to the walls of the structure if the finished grade is level. If the ground is not entirely level, the grade shall be determined by lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet from the building, between the building and a point six (6) feet from the building, as determined in the State Construction Code.

GREENBELT: See LANDSCAPING.

GROCERY STORE: A retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers.

GYM or GYMNASIUM: A room or building equipped for gymnastics, exercise or sport.

HABITABLE SPACE: A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

HALF STORY: See STORY, HALF.

HAZARDOUS USES: Any activity which is or may become injurious to public health, safety, or welfare or the environment. Hazardous uses include but are not limited to all uses which involve the storage, sale, manufacture, or processing of materials which are dangerous or combustible and are likely to burn immediately, and from which either poisonous fumes or explosions are to be anticipated in the event of fire. These uses include all high hazard uses listed the State Construction Code, as amended.

HEIGHT OF BUILDING: See BUILDING HEIGHT.

HIGHWAY: See STREET.

HOME OCCUPATION: An occupation or profession conducted within a dwelling or on a residential lot by the inhabitants thereof, where such use is clearly incidental to the principal use of the dwelling as a residence. (See Section 3.06.)

HOSPITAL: An institution which is licensed by the Michigan Department of Health to provide in-patient and out-patient medical and surgical services for the sick and injured, and which may include such related facilities as laboratories, medical testing services, central service facilities, and staff offices.

HOSPITAL, VETERINARY: See CLINIC, VETERINARY

HOTEL: A building occupied as a temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of one (1) bedroom and a bath, occupied for hire, and which typically provides hotel services such as maid service, the furnishing and laundering of linens, telephone and secretarial or desk service, the use of furniture, a dining room and general kitchen, and meeting rooms.

HOUSING FOR THE ELDERLY AND THE DISABLED: A facility other than a hospital or hotel, which provides room and board to non-transient persons. Housing for the elderly and the disabled may include the following:

a. **Senior Apartments:** Multiple-family dwelling units generally occupied by persons sixty (60) years of age or older.

b. **Elderly Housing Complex:** A building or group of buildings containing dwellings where the occupancy is restricted to persons sixty (60) years of age or older or couples where either the husband or wife is sixty (60) years of age or older.

c. **Congregate Housing:** A type of semi-independent housing facility containing common kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care.

d. **Dependent Housing Facilities:** Facilities including nursing homes, which are designed for the care of the aged, infirm or those suffering from bodily disorders who need a wide range of health and support services, including personal nursing care.

IMPERVIOUS SURFACE: A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

INDOOR RECREATION CENTER: A recreational use fully enclosed by walls and including a roof. Examples of such uses include bowling facilities, skating rinks, and indoor pools.

INGRESS AND EGRESS: As used in this Ordinance, "ingress and egress" generally is used in reference to a driveway which allows vehicles to enter or leave a parcel of property, or to a sidewalk which allows pedestrians to enter or leave a parcel of property, a building, or another location.

INTERIOR LOT: See, LOT, INTERIOR.

JUNK YARD or SALVAGE YARD: An area where waste and used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled, including, but not limited to: junk, scrap iron, metals, paper, rags, tires, bottles and automobiles. A "junkyard" includes automobile wrecking yards and includes any open area of more than two hundred (200) square feet for storage, keeping or abandonment of junk.

JUVENILE SERVICES FACILITIES: A residential and institutional complex for providing detention and rehabilitation services to juveniles under the jurisdiction of a court of record.

KENNEL: A service commercial establishment for the keeping, boarding, breeding or training of four (4) or more male or female dogs or domestic animals. Included in this definition are any places where dogs and other domestic animals, excluding livestock, are bred and raised and are sold or kept for sale or boarded whether for profit or not.

KIOSK: A freestanding permanent outdoor structure that is no greater than one hundred (100) square feet in area that is designed to serve drive through and/or nonmotorized traffic. Examples of these types of structures are automatic teller machines or coffee or food sales.

LAKE: Any body of water, natural or artificial, defined as "inland lake or stream" in the Natural Resources and Environmental Protection Act, Michigan Public Act 451 of 1994, as amended.

LANDFILL: A tract of land that is used to collect and dispose of "solid waste" as defined and regulated in the Natural Resources and Environmental Protection Act, Michigan Public Act 451 of 1994, as amended.

LANDSCAPING: The treatment of the ground surface with live plant materials such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other live plant material. In addition, a landscape design may include other decorative man-made materials, such as wood chips, crushed stone, boulders, or mulch. Structural features such as fountains, pools, statues, and benches shall also be considered a part of landscaping, but only if provided in combination with live plant material. Artificial plant materials shall not be counted toward meeting the requirements for landscaping. Various landscaping-related terms are defined as follows:

a. **Berms:** A continuous, raised earthen mound with a flattened top and sloped sides, capable of supporting live landscaping materials, and with a height and width that complies with the requirements of Article 6.00 this Ordinance.

b. **Grass:** Any of a family of plants with narrow leaves normally grown as permanent lawns in Midland or Bay County, Michigan.

c. **Greenbelt:** A strip of land of definite width and location reserved for the planting of a combination of shrubs, trees, and ground cover to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this ordinance.

d. **Ground Cover:** Low-growing plants that form a dense, extensive growth after one complete growing season, and tend to prevent weeds and soil erosion.

e. **Hedge:** A row of closely planted shrubs or low-growing trees which commonly form a continuous visual screen, boundary, or fence.

f. **Hydro-Seeding:** A method of planting grass where a mixture of the seed, water, and mulch is mechanically sprayed over the surface of the ground.

g. **Interior Parking Lot landscaping:** Landscaped areas located in the interior of a parking lot in such a manner as to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area.

h. **Mulch:** A layer of wood chips, dry leaves, straw, hay, plastic, or other materials placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, or aid plant growth.

i. **Nurse Grass:** Any of a variety of rapidly-growing annual or perennial rye grasses used to quickly establish ground cover to prevent dust or soil erosion.

j. **Screen or Screening:** A wall, wood fencing, or combination of plantings of sufficient height, length, and opacity to form a visual barrier. If the screen is composed of nonliving material such material shall be compatible with materials used in construction of the main building, but in no case shall include wire fencing.

k. **Shrub:** A self-supporting, deciduous or evergreen woody plant, normally branched near the base, bushy, and less than fifteen (15) feet in height.

l. **Sod:** An area of grass-covered surface soil held together by matted roots.

m. **Tree:** A self-supporting woody, deciduous or evergreen plant with a well-defined central trunk or stem which normally grows to a mature height of fifteen (15) feet or more in Midland or Bay County, Michigan.

1. **Deciduous Tree:** A variety of tree that has foliage that is shed at the end of the growing season.
2. **Evergreen Tree:** A variety of tree that has foliage that persists and remains green throughout the year.

n. **Ornamental Tree:** A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of twenty-five (25) feet or less in Midland or Bay County, Michigan.

o. **Shade Tree:** For the purposes of this Ordinance, a shade tree is a deciduous tree which has a mature crown spread of fifteen (15) feet or greater in Midland County, Michigan, and has a trunk with at least five (5) feet of clear stem at maturity.

p. **Vine:** A plant with a flexible stem supported by climbing, twining, or creeping along the surface, and which may require physical support to reach maturity.

LANDSCAPING CONTRACTOR'S OPERATION: A business engaged in the practice of improving building sites or other grounds by contouring the land and planting flowers, shrubs, and trees. A Landscaping Contractor's Operation typically consists of equipment, tools, vehicles, and materials used in or associated with such a business.

LOADING SPACE, OFF-STREET: An off-street space which is safely and conveniently located on the same lot as the building or buildings being served, for the temporary parking of delivery vehicles while loading and unloading merchandise and materials.

LOT: A tract of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records. A lot may be a single lot of record, a portion of a lot of record, a combination of contiguous lots of record, contiguous portions of lots of record, a parcel of land described by metes and bounds or a condominium lot.

LOT AREA, NET: The total horizontal area within the lot lines of the lot, exclusive of any abutting public road rights-of-way or private road easements, or the area of any body of water. The net lot area shall be used in determining compliance with Minimum Lot Area standards.

LOT AREA, GROSS: The net lot area plus one-half (½) of the area of any public right-of-way area or private road easement immediately adjacent to or abutting the lot.

LOT, BUILDABLE AREA: See BUILDABLE AREA

LOT, CONTIGUOUS: Lots adjoining each other.

LOT, CORNER: A lot abutting on and at the intersection of two or more streets, provided that the streets intersect at an angle of not more than one hundred thirty-five (135) degrees. Where a lot is on a curve, if the tangents through the extreme point of the street lines of such lot make an interior angle of not more than one hundred thirty-five (135) degrees, it shall be considered a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above (see illustration on page 2-22). A tangent is a straight line extended from the outer edges of a curve which intersect to form a corner.

For the purposes of this definition, the "street" lot line shall be the line separating the lot from the street or road right-of-way (see Open Space Terms illustration on page 2-40).

LOT DEPTH: The horizontal distance between the front street line and rear lot line, measured along the median between the side lot lines (See Open Space Terms illustration on page 2-40).

LOT, DOUBLE FRONTAGE (OR THROUGH LOT): A lot, other than a corner lot, that fronts upon two (2) more-or-less parallel streets or upon two (2) streets that do not intersect at the boundaries of the lot. In the case of a row of double frontage lots, one (1) street shall be designated as the front street for all lots in the plat and in the request for a zoning compliance permit.

LOT, FLAG: A lot which is located behind other parcels or lots fronting on a public or private road and /or drive, but which has a narrow extension to provide access to the road. The extension, which provides access to the buildable portion of the lot, shall comply with the lot width standards for the district in which the lot is located.

LOT FRONTAGE: The length of the front lot line measured along the street right-of-way or easement line.

LOT, INTERIOR: Any lot other than a corner lot with only one (1) lot line fronting on a street.

LOT LINES: The lines bounding a lot as follows (See illustration on page 2-40):

a. **Front Lot Line**: The lot line separating said lot from the street. In the case of a corner lot, the line separating the narrowest side of a lot from the street. The orientation of the structure on the lot does not impact the front lot line definition.

b. **Rear Lot Line**: Ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of irregular, triangular, wedge-shaped, or lots that are pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet in length, lying farthest from the front lot line and wholly within the lot.

c. **Side Lot Line:** Any lot line other than the front or rear lot lines. A side lot line separating a lot from another lot or lots is an interior side lot line.

d. **Side Street Lot Line:** A side lot line separating a lot from a road right-of-way.

e. **Interior Lot Line:** Any lot line which does not abut upon a street.

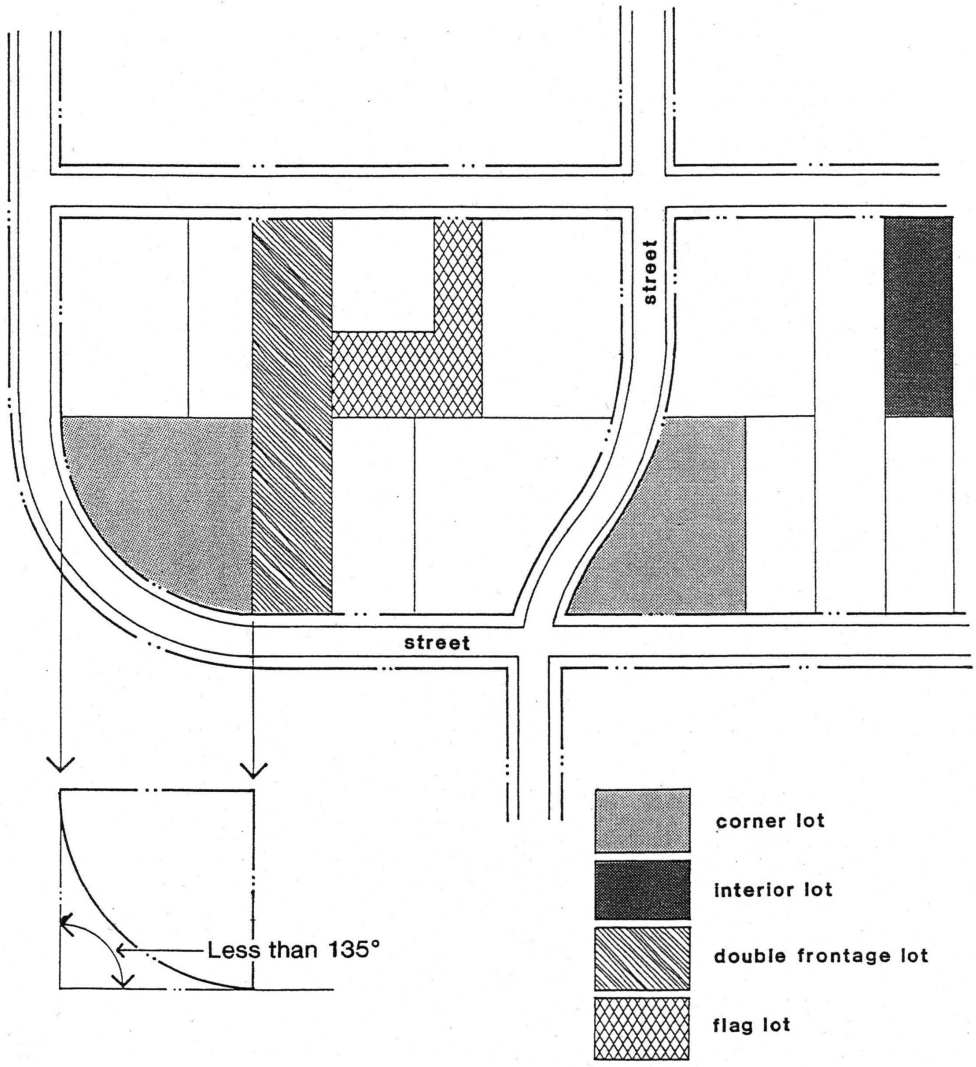
LOT OF RECORD: A parcel of land, the dimensions and configuration of which are shown on a subdivision plat recorded in the offices of the Midland or Bay County Register of Deeds, or a legally created lot or parcel described by metes and bounds.

LOT SPLIT AND CONSOLIDATION: The dividing or uniting of lots by virtue of changes in the deeds in the office of the Midland or Bay County Register of Deeds.

LOT WIDTH: The straight line distance between the side lot lines, measured at the two points where the minimum front yard setback line intersects the side lot lines (see illustration on page 2-22).

LOT, ZONING: A tract of land consisting of a group of adjacent lots located within a single block, which, at the time of filing for a building permit, is designated by the owner or developer as a tract to be used, developed or build upon as a unit, under single ownership or control. A zoning lot is considered as a single lot for the purpose of this chapter. In such case, the outside perimeter of the such group of lots shall constitute the front, rear, and side lots thereof.

MAIN ACCESS DRIVE: A private access drive from a public or private street or road to a mobile home park, apartment or condominium complex, or commercial development.



Interior & Corner Lots

MAJOR THOROUGHFARE: A main traffic artery designated on the Midland Thoroughfare Plan as a major thoroughfare.

MANEUVERING LANE: The area of a drive which provides direct maneuvering access to a parking space.

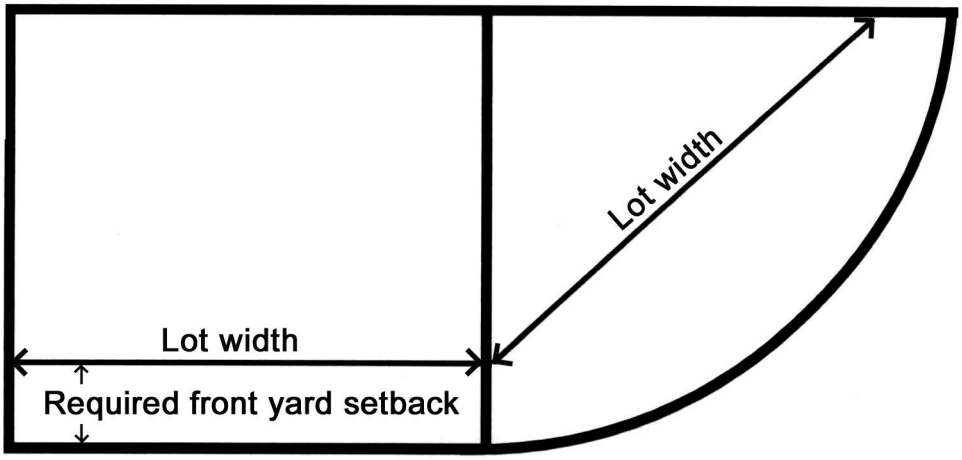
MANUFACTURED HOUSING: See DWELLING, MANUFACTURED.

MARGINAL ACCESS ROAD: See SECONDARY ACCESS DRIVE.

MARIHUANA, also known as MARIJUANA, also known as CANNABIS. That term shall have the meaning given to it in section 7601 of the Michigan public health code, 1978 PAS 368, MCL 333.7106, as is referred to in section 3(d) of The Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d). Any other term pertaining to marihuana used in this Chapter and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with that Act.

MASTER PLAN: A comprehensive, long-range plan adopted and amended from time to time by the Planning Commission and/or City Council that is intended to serve as a guide for growth and

development of the City, as provided for by the Municipal Planning Act, Public Act 33 of 2008. The plan consists of maps, text, tables, and graphics with recommendations concerning land use, economic development, housing, recreation and open space, transportation and community facilities.



Lot Width

MEDICAL CLINIC: See CLINIC, MEDICAL.

MEDICAL OFFICE BUILDING: An office building of which greater than fifty (50) percent of the floor area is occupied by licensed medical, dental, optometric, osteopathic, or chiropractic offices for the examination or treatment of human outpatients.

MEDICAL USE OF MARIHUANA. 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, as defined under The Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d).

MEZZANINE: An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third (1/3) of the floor area of the story in which the level or levels are located (see illustration on page 2-31).

MINI-WAREHOUSE: A building or group of buildings, each of which contains several individual storage units, each with a separate door and lock and which can be leased on an individual basis. Also known as "Mini-Storage."

MIXED-USE BUILDING. A building that contains some combination of non-residential and residential uses, such as a building with a non-residential use on the first floor and residential units above the first floor or live-work units.

MOBILE HOME: See DWELLING, MOBILE HOME.

MOBILE HOME PARK: A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home, subject to conditions set forth in the Mobile Home Commission Rules and the Mobile Home Commission Act, Public Act 96 of 1987, as amended.

MOBILE HOME LOT: An area within a mobile home park which is designated for the exclusive use of a specific mobile home.

MORTUARY or FUNERAL HOME: An establishment where the dead are prepared for burial or cremation and where wakes or funerals may be held.

MOSQUE: See PLACE OF WORSHIP.

MOTEL: A building or group of buildings occupied as a temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of a bedroom and bath, occupied for hire, and which provides customary motel services such as maid service, linen service, telephone and/or desk service, and the use of furniture. Motels typically provide exterior entrances and on-site parking for each unit. A motel may also include conference room or banquet facilities, a dining room or standard restaurant, and manager or caretaker living quarters. The term "motel" shall include buildings designed as "auto-courts", "tourist courts," "motor courts", “suites” and similar terms that refer to a building or buildings containing rooms to be occupied as temporary abiding places.

MULTIPLE FAMILY DWELLING: See DWELLING, MULTIPLE FAMILY.

MUNICIPALITY: The City of Midland, Michigan.

MUNICIPAL WATER SYSTEM: A water supply system owned by a City, Township or other governmental unit or authority or commission comprised of governmental units.

NATURAL RESOURCES: Natural resources shall include land, soils, wetlands, floodplains, surface and ground water, topography, trees and other types of vegetative cover, subsurface strata, geologic formations, animal life, and naturally occurring substances and living organisms that can be useful to people. Natural resources are of two types: renewable (e.g., plants and trees) and nonrenewable (e.g., mineral resources).

NET BUILDABLE AREA: See BUILDABLE AREA, NET.

NONCONFORMITY: Any building, structure, lot, or use of any lot, land, building or structure, which does not conform at the time of adoption of this Ordinance or any amendment thereto, to the regulations for the district in which it is located.

NONCONFORMING BUILDING: A lawfully-constructed building or portion thereof in existence prior to the effective date of this Ordinance or amendment thereto that does not conform to the current requirements regarding building size, setbacks, height, lot coverage, parking or other regulations for the district in which such building is located.

NONCONFORMING LOT: A lawfully-established lot existing at the effective date of this Ordinance or amendment thereto that does not meet the current minimum area or dimensional requirements of the district in which the lot is located.

NONCONFORMING SIGN: A lawfully-constructed sign that on the effective date of this Ordinance or amendment thereto does not conform to one or more current regulations set forth in this Ordinance.

NONCONFORMING USE: A use that lawfully occupied a building or land at the effective date of this ordinance or amendment thereto and which does not conform to the current use regulations of this Ordinance for the zoning district in which it is now located.

NONCONFORMITY, DIMENSIONAL: A nonconformity that exists when the height, size, or minimum floor space of a structure, or the relationship between an existing building and other buildings or lot lines, does not conform to the standards of the district in which the property is located.

NUISANCE: Any offensive, annoying, or disturbing practice or object, which prevents the free use of one's property, or which renders its ordinary use or physical occupation uncomfortable. Nuisance

commonly involves continuous or recurrent acts which give offense to the senses, violate the laws of decency, obstruct reasonable and comfortable use of property, or endangers life and health.

NUISANCE, ATTRACTIVE: A use, practice, structure or condition on a property that children are reasonably likely to come in contact with or be exposed to that involves an unreasonable risk of death or serious bodily harm to children, and that meets the criteria in the "classic statement of the doctrine of attractive nuisance" in the Restatement of Torts, 2d 339, p. 167; 76 Mich. App. 137 - June 1977.

NURSERY, DAY NURSERY, or NURSERY SCHOOL: See RESIDENTIAL CARE FACILITIES.

NURSERY, PLANT MATERIAL: A space, building, and/or structure, or combination thereof, where live trees, shrubs, and other plants used for gardening and landscaping are propagated, stored, and/or offered for sale on the premises, but not including any space, building or structure used principally for the sale of fruits, vegetables, or Christmas trees.

NURSING HOME, CONVALESCENT HOME, or REST HOME: SEE HOUSING FOR THE ELDERLY, Dependent Care.

OBSCURING WALL: See WALL, OBSCURING.

OCCUPANCY, CHANGE OF: The term "change of occupancy" shall mean a discontinuance of an existing use and the substitution of a use of a different kind or class, or, the expansion of a use.

OCCUPIED: Used in any way at the time in question.

OFFICE: A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

OFFSET: The distance between the centerline of the subject driveway and the centerline of driveways on the opposite side of the street.

ONE FAMILY DWELLING: See DWELLING, ONE FAMILY or SINGLE FAMILY.

OPEN SPACE: Any parcel or area of land or water that is generally free of structures and that is set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space may be required for recreation, resource protection, aesthetics, or other purposes.

OPEN STORAGE: Storage of building materials, equipment and supplies such as but not limited to: sand, gravel, stone, lumber, in an unroofed area in the same place for more than 24 hours.

ORNAMENTAL FIXTURE: A decorative or functional object or element that does not require a foundation, and cannot be used for human or animal shelter. Examples of ornamental fixtures include, flag poles, landscape features, garden ornaments, clothes lines, and similar objects.

OUTDOOR SALES LOT: Any area used for the display and sale of new or used passenger, commercial or recreational vehicles. The area shall be arranged in an orderly manner. The keeping of miscellaneous materials, equipment parts or outdoor storage of damaged or inoperable vehicles and debris shall be prohibited.

OUTDOOR STORAGE LOT: Any area outdoors used for the storage of new or used passenger, commercial or recreational vehicles (damaged or intact including those awaiting service or repair), equipment, parts, materials or other miscellaneous items accessory to a new or used automotive, commercial or recreational vehicle dealership.

OUTDOOR WOOD BURNER: (Outdoor wood fired hydronic heater, OWHH)A fuel burning device designed to burn wood or other solid fuels; That the manufacturer specifies for outdoor installation or in

structures not normally occupied by humans including structures such as garages and sheds; and which heats building space and water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

OUTLOT: When included within the boundary of a recorded plat, a lot set aside for purposes other than those for the rest of the lots in the plat. For example, land set aside for a future street would typically be set aside in an outlot.

OVERLAY ZONE: A zoning district which has definite boundaries and is superimposed over all existing zoning districts within those boundaries. The overlay zoning may establish additional regulations, reduce existing regulations, or extend or limit the permitted uses within the underlying zoning districts.

OWNER: The owner of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property, or his or her duly authorized agent.

PARCEL: A continuous area, tract, or acreage of land that has not been divided or subdivided according to the provisions of the Land Division Act and has frontage on a public or private street.

PARK: A parcel of land, building or structure used for recreational purposes including but not limited to playgrounds, sport fields, game courts, beaches, trails, picnicking areas, and leisure time activities.

PARKING STRUCTURE: A structure, building, or parcel of land, or any portion thereof used for the storage or parking of motor vehicles, or boats, operated as a business.

PARKING LOT, OFF-STREET: An area in non-residential districts which provides vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit and for parking of more than three (3) vehicles.

PARKING SPACE: An area of definite length and width as designated in this Ordinance for parking an automobile or other vehicle, and which is fully accessible for such purposes.

PATIO: A paved open space of land at grade adjacent to a residential dwelling unit or mobile home which is used as an extension to the interior of the home for private or semi-private entertainment or leisure activities.

PAWN SHOP: An establishment where the shop employee or proprietor lends money on the security of personal property pledge and kept by the shop until the loan is repaid. A pawn shop can also include establishments where individuals sell personal items to the shop employee or proprietor for cash instead of a loan, and where the items are then sold to the general public. A pawn shop is a retail use**.**

PEDESTRIAN WALKWAY: A right-of-way, dedicated to public use, which crosses a block to facilitate pedestrian access to adjacent streets and properties, or is constructed to service an area deemed to be in the public interest.

PERFORMANCE GUARANTEE: A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the Ordinance, regulations, and approved plans and specifications of the development.

PERVIOUS SURFACE: A surface that permits full or partial absorption of storm water.

PET: See ANIMAL, DOMESTIC.

PILOT AND DEVELOPMENT PLANT: An industrial plant with the principal function of research, and whose manufacturing operations are limited to those which related specifically to and support the principal use and which have no external nuisances.

PLACE OF WORSHIP: Any structure wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

PLANNED UNIT DEVELOPMENT (PUD): A planning or construction project involving the use of special zoning requirements and review procedures that are intended to provide design and regulatory flexibility.

PLANNING COMMISSION: The Planning Commission of the City of Midland.

PLOT PLAN: A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and all salient features required to adequately evaluate whether the approvals sought by an applicant are in compliance with this Ordinance.

POLICE POWER: The constitutional power available to a sovereign authority to legislate so as to impair the use or value of private property for the benefit of the public at large.

PORCH, ENCLOSED: A covered entrance to a building or structure which is totally enclosed and projects out from the main wall of such building or structure, and has a separate roof or an integral roof with the principal building or structure to which it is attached.

PORCH, OPEN: An entrance, covered or uncovered, to a building or structure which projects out from the main wall of such building, which is unenclosed except for columns supporting the roof.

PRINCIPAL USE: See USE, PRINCIPAL.

PRIVATE STREET OR ROAD: See STREET.

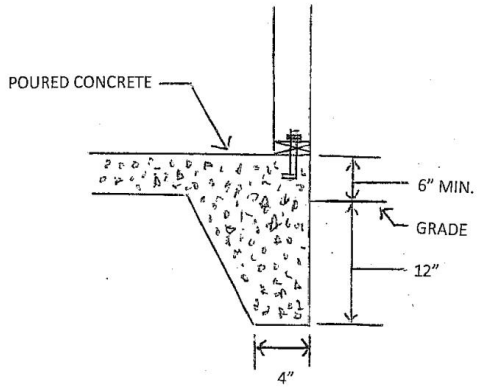
PROPERTY LINE: The line separating a piece of property from the street right- of-way and the lines separating a parcel of property from the parcels next to it. See also LOT LINE.

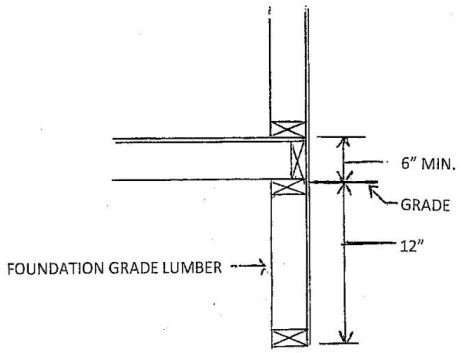
PUBLIC UTILITY: Any persons, firm, corporation, municipal department, or board, duly authorized to furnish under federal, state, or local regulations a service which is of public consequence and need. The principal distinctive characteristics of a public utility are that:

a. because of the nature of its business, it has characteristics of natural monopoly, and

b. it provides a service to an undefined public (or portion of the public) which has a legal right to demand and receive its services. Services for the purpose of this ordinance include gas, electricity, steam, water, sewage, transportation, telephone, and cable television.

RAT WALL: A low perimeter foundation wall that is both below and above grade, intended to prevent rodents and burrowing animals from accessing the sub-floor area.





REAL PROPERTY: Includes the surface, whatever is attached to the surface (such as buildings or trees), whatever is beneath the surface (such as minerals), and the area above the surface, i.e., the sky.

RECEPTION ANTENNA: An apparatus installed out-of-doors which is capable of receiving communications for radio and/or television purposes, including satellite reception antennas, but excluding such facilities that have been pre-empted from City regulation by applicable state or federal laws or regulations.

RECOGNIZABLE AND SUBSTANTIAL BENEFIT: A clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonably foreseeable detriments of the proposed development and uses. Such benefits may include: long-term protection or preservation of natural resources and natural features, historical features, or architectural features; or elimination of or reduction in the degree of nonconformity in a nonconforming use or structure.

RECREATION LAND: Any public or privately owned lot or land that is utilized for recreation activities such as, but not limited to, camping, swimming, picnicking, hiking, nature trails, boating, and fishing.

RECREATIONAL VEHICLE: "Recreational Vehicles" shall include the following:

a. **Travel Trailer:** A portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.

b. **Pickup Camper:** A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.

c. **Motor Home:** A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water, and electrical facilities.

d. **Folding Tent Trailer:** A folding structure, mounted on wheels and designed for travel and vacation use.

e. **Boats and Boat Trailers:** "Boats" and "boat trailers" shall include boats, floats, rafts, canoes, jet skis plus the normal equipment to transport them on the highway.

f. **Other Recreational Equipment:** Other recreational equipment includes snowmobiles, all terrain or special terrain vehicles, utility trailers, and storage trailers plus the normal equipment to transport them on the highway.

RECREATIONAL VEHICLE PARK: A facility designed for either overnight or long-term use by travelers using travel-trailers, pick-up campers, or other recreational vehicles. Such parks typically provide electrical hook-ups, restrooms and showers, and recreational facilities.

RECREATION FACILITIES, INDOOR: An establishment which provides indoor exercise facilities and indoor court sports facilities, and which may include spectator seating in conjunction with the sports facilities. For the purposes of this Ordinance, a bowling establishment shall be considered a type of indoor recreation center.

RECREATIONAL FACILITIES, OUTDOOR: Playgrounds, parks, picnic areas, golf courses, ball fields, camps, swimming pools, nature preserves, or any other type of community space or equipment that is designed to provide the user with the opportunity to relax, engage in athletic activity, or engage in other leisure pursuits.

RECYCLING CENTER: A facility at which recyclable materials, as defined in Michigan Public Act 451 of 1994, as amended, are separated and processed prior to shipment to others who will use the materials to manufacture new products.

RECYCLING COLLECTION STATION: A facility for the collection and temporary storage of recoverable resources, prior to shipment to a recycling center for processing.

REGULATED WETLAND: See WETLAND, REGULATED.

REHABILITATION: The upgrading of an existing building or structure or part thereof which is in a dilapidated or substandard condition.

RESIDENTIAL CARE FACILITIES:

a. **Child Care Organization:** A facility for the care of children under 18 years of age, as licensed and regulated by the State under Michigan Public Act 116 of 1973, and the associated rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows:

   1. **Child care center** or **day care center** means a facility, other than a private residence, receiving more than six (6) pre-school or school age children for group care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day.

      The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative, preschool play group, or drop-in center. "Child care center" or "day care center" does not include a Sunday school conducted by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

   2. **Foster family home** is a private home in which one but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

3. **Foster family group home** means a private home in which more than four (4) but less than seven (7) children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

4. **Family day care** means a private home in which one but no more than six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.

5. **Group day care home** means a private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

b. **Adult Foster Care:** A facility for the care of adults, over eighteen (18) years of age, as licensed and regulated by the State of Michigan Public Act 218 of 1979, and rules promulgated by the State Department of Social Services. Such organizations shall be defined as

1. **Adult foster care facility** means a governmental or non-governmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care.

   An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or a residential center for persons released from or assigned to a correctional facility.

2. **Adult foster care small group home** means a facility with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.

3. **Adult foster care large group homes** means a facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.

4. **Adult foster care family home** means a private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week or for two (2) or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

RESIDENTIAL TREATMENT CENTER: A community-based, State-licensed facility that provides therapeutic services, counseling or treatment for mental health or substance use disorders along with room and board in a highly structured environment for its residents with staffing 24 hours per day, seven days a week. A Residential Treatment Center does not include Housing for the Elderly and the Disabled as defined by this Ordinance.

RESTORATION: The reconstruction or replication of an existing building's original architectural features.

RESTAURANT: A restaurant is any establishment whose principal business is the sale of food and/or beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive- through, fast food, standard restaurant, or bar/lounge, or combination thereof, as defined below:

a. **Restaurant, Fast-Food:** A fast-food restaurant is a restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food and/or beverage to the customer. Service may be at a counter, cafeteria line, drive through window or in a motor vehicle for consumption where it is served, at tables, booths, or stands inside the structure or out, in a motor vehicle**,** or for consumption off the premises.

b. **Restaurant, Standard:** A standard restaurant is a restaurant whose method of operation involves either:

   1. The delivery of prepared food and/or beverages by waiters and waitresses to customers seated at tables within a completely enclosed building, or

   2. The prepared food and/or beverages are acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables.

c. **Bar/Lounge:** A bar or lounge is a type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

RETAIL STRIP CENTER: A property containing one or more buildings containing two or more commercial uses which have been designed and developed as contiguous units, and characterized by shared parking and the absence of a common interior walkway. This use is generally one story in height and one store deep.

RETENTION BASIN: A pond, pool, or basin used for the storage of water runoff.

RETREAT CENTER: A use that is typically in a building located in a quiet, secluded, area and which contains rooms for meetings, discussion, and contemplation.

RIGHT-OF-WAY: A strip of land reserved and dedicated for a street, highway, alley, walkway, or other public purpose, and which may be occupied by public utilities, such as electric transmission lines, gas pipelines, cable television lines, fiber optics lines, water mains, sanitary sewers, storm sewer mains, shade trees, or other utility uses (see illustration on page 2-36).

ROAD: see STREET

ROADSIDE STAND: A temporary structure or use operated for the purpose of seasonally selling agricultural products, a portion of which are raised or produced on the same premises by the proprietor of the stand. A roadside stand shall not include a small operation consisting of a portable table that is operated intermittently.

ROOM: For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom, equal to at least eighty (80) square feet in area. A room shall not include the area in kitchens, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing 1, 2 or 3 bedroom units and including a "den", "library", or other extra room shall count such extra room as a bedroom for the purpose of computing density.

ROOMING HOUSE: See BOARDING HOUSE.

ROOMING UNIT: Any room, or group of rooms, forming a single habitable unit used for living and sleeping, but which does not contain cooking or eating facilities.

SANITARY SEWER: A system of underground pipes used to carry sanitary sewage from the point of origin (e.g., residential units, offices, etc.) to the point of discharge at a wastewater treatment facility.

SCHOOL: A building used for the purpose of elementary, secondary, or university education, which meets all requirements of the compulsory education laws of the State of Michigan.

SECONDARY ACCESS DRIVE: A road that is generally parallel to an arterial or collector road and that is designed to provide access to abutting properties so that these properties are separated from the through traffic on the arterial or collector road and so that the flow of traffic on the arterial or collector road is not impeded by direct driveway access from a large number of abutting properties. Also known as a "marginal access drive."

SERVICE TRUCK: A pick-up truck or van that is used in conjunction with a repair or maintenance business, such as a plumbing, electrical, or carpentry business.

SETBACK: The distance between the front, side or rear lot line and the nearest part of a structure on the lot. The MINIMUM REQUIRED SETBACK is the minimum distance between the front, side or rear lot line and the nearest part of a structure in order to conform to the required yard setback provisions of this Ordinance (see definition of YARD, see also illustrations on page 2-40). Measurements are made at right angles to the property line.

SHOPPING CENTER: A grouping of retail businesses and service uses on a single site with common parking facilities.

SIGN: See Section 2.03 Signs.

SINGLE FAMLIY DWELLING: See DWELLING, ONE FAMILY or SINGLE FAMILY.

SITE PLAN: A plan, prepared to scale, as required in Article 27.00, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.

SMALL WIND ENERGY CONVERSION SYSTEM (SWECS), also known as Small Wind Energy Systems (SWES): A wind energy conversion system consisting of a wind turbine, a tower, and associated control and conversion electronics, which has a rated capacity of not more than 25 kW and which is intended to primarily reduce on-site consumption of utility power.

SOCIAL SERVICE AGENCIES: An administrative facility operated by a government, public, civic, nonprofit or charitable organization providing services to advance the welfare of citizens in need. Typical uses include but are not limited to employment counseling, life skills training, counseling, food banks, and blood banks. Social Service Agencies shall not include transitional housing or group homes.

SOLAR POWER GENERATING FACILITY: Solar facilities include all structures and mechanical installations necessary to obtain usable energy from the light of the sun.

SOUP KITCHEN: A facility providing food to one or more individuals who are otherwise temporarily or permanently homeless or unable to provide sufficient food for themselves. Soup Kitchens must be located within Transitional Housing or Day Shelters as defined by this ordinance.

SPECIAL EVENT: An occurrence or noteworthy happening of seasonal, civic, or church importance, which is organized and sponsored by a community group, organization, club or society, and which offers a distinctive service to the community, such as public entertainment, community education, civic celebration, or cultural or community enrichment. Special events are unlike the customary or usual activities generally associated with the property where the special event is to be located.

STORY: That portion of a building, included between the upper surface of any floor and the upper surface of the floor or roof next above it (see illustrations on page 2-34).

STORY, ABOVE GRADE PLANE: Any story having its finished floor surface entirely above grade plane, except that a basement shall be considered a story above grade plane where the finished surface of the floor above the basement is:

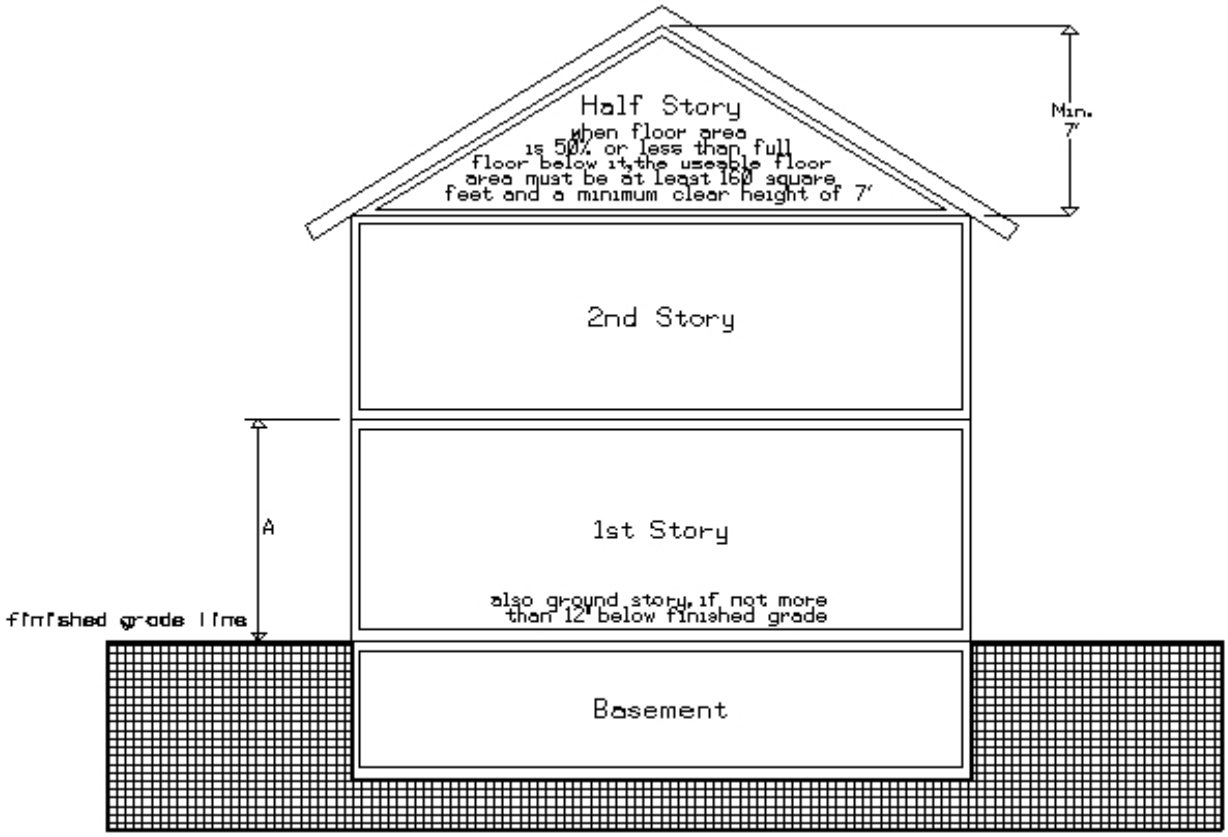
a. More than 6 feet above the grade plane

b. More than 6 feet above the finished ground level for more than 50% of the total building perimeter; or

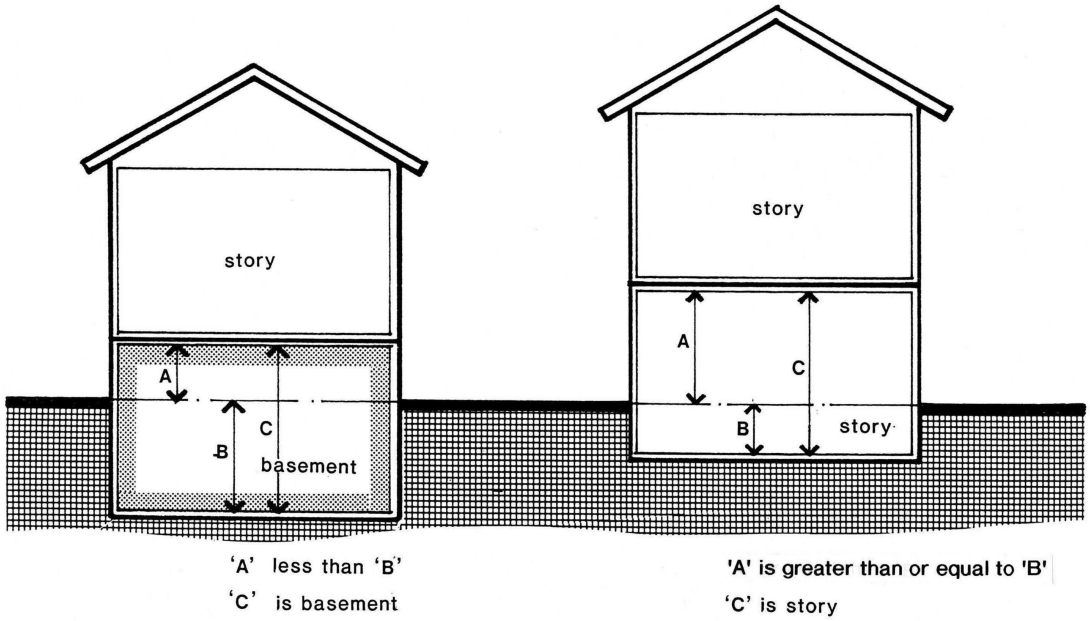
c. More than 12 feet above the finished ground level at any point.

STORY, HALF: The uppermost story lying under a pitched roof, the usable floor area of which does not exceed one-half (½) of the floor area of the uppermost full story. The usable floor area of a half story shall be at least one hundred and sixty (160) square feet with a minimum clear height of seven (7) feet.

STORY HEIGHT: The vertical distance from top to top of two successive finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists.



Basic Structural Terms



Basement and Story

STREET: Any public or private thoroughfare or right-of-way, other than a public or private alley, dedicated to or designed for travel and access to any land, lot or parcel whether designated as a thoroughfare, collector, road, avenue, highway, boulevard, drive, lane, place, court, or any similar designation. Various types of streets are defined as follows:

a. **Private Street:** Any street which is to be privately maintained and has not been accepted for maintenance by the City of Midland, the Midland or Bay County Road Commissions, the State of Michigan or the federal government, but which is subject to approval by the City.

b. **Public Street:** Any street or portion of a street which has been dedicated to and accepted for maintenance by the City of Midland, the Midland or Bay County Road Commissions, State of Michigan or the federal government.

c. **Collector Street:** A street whose principal function is to carry traffic between local and arterial streets but may also provide direct access to abutting properties.

d. **Cul-De-Sac:** A street that terminates in a vehicular turnaround.

e. **Local Street:** A street whose sole function is to provide access to properties.

f. **Arterial Street, Thoroughfare or Highway:** A street or highway which is intended to service a large volume of traffic for both the immediate area and the region beyond, and which serves as an avenue for circulation of traffic into, out of, or around the City.

g. **Residential Street or Road:** A road whose principal function is to provide direct access to residential properties in a subdivision or other type of residential development.

STREET LOT LINE: A dividing line between the street and a lot, also known as the right-of-way line.

STRUCTURAL ADDITION: Any alteration that changes the location of the exterior walls or area of a building.

STRUCTURAL ALTERATIONS: Any change in the supporting members of the building, such as the bearing walls, beams or girders, or any change in the dimensions or configuration of the roof or exterior walls.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. Structures include, but are not limited to, principal and accessory buildings, towers, decks, fences, privacy screens, walls, antennae, swimming pools, and signs.

SUBDIVISION PLAT: Generally, the partition of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one (1) year, or of building development that results in one (1) or more parcels of less than forty (40) acres or the equivalent, and that is not exempted from platting requirements by sections 108 and 109 of Michigan Public Act 288 of 1967, as amended, and by the subdivision control regulations adopted by the City.

SWIMMING POOL: Any permanent, non-portable structure or container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing.

SYNAGOGUE: See PLACE OF WORSHIP.

TATTOO PARLOR: Any place or establishment which is operated for the principal business or primary purpose of marking the skin with indelible ink, pigment or other such substance so as to produce permanent design, mark or similar feature on the skin.

TEMPORARY BUILDING: See BUILDING, TEMPORARY.

TEMPORARY USE or STRUCTURE: Shall mean a use or structure permitted to exist for a limited period of time.

THEATER: An enclosed building used for presenting performances or motion pictures which are observed by paying patrons from seats situated within the building.

THOROUGHFARE: See STREET.

THROUGH LOT: See LOT, DOUBLE FRONTAGE or THROUGH.

TOURIST HOME: See BED-AND-BREAKFAST ESTABLISHMENT.

TOWNHOUSE: See DWELLING, SINGLE FAMILY ATTACHED or TOWNHOUSE.

TOW SERVICE: An establishment that provides for the authorized removal of vehicles and also provides for the storage of such vehicles on public or private property. This shall not include the permanent storage, disposal, disassembly or salvage of any vehicle, nor shall it include accessory storage of inoperable vehicles.

TRANSITIONAL HOUSING: An establishment with administrative supervision that provides, through permanent facilities and guidance personnel, resident beds, structured or supervised peer group living and limited programming emphasizing social rehabilitation with support and guidance toward the goals of independent living as they transition from institutional living. Transitional housing also includes Emergency Shelter housing which is safe housing provided for those who are homeless or those who are fleeing situations of domestic or sexual violence. In these situations, the housing is treated as the individuals' home with staffing and services available.

Transitional Housing may include provision of food and clothing and support services such as counseling, education and transportation. Transitional Housing includes homeless shelters, halfway houses, missions, religious organizations with overnight stay, other forms of temporary emergency housing or shelter, and similar facilities.

TRUCK TERMINAL: A structure to which goods, except raw or unprocessed agricultural products, natural mineral or other resources, are delivered for immediate distribution or to be or divided for delivery in larger or smaller units to other points, or for distribution or division involving transfer to other modes of transportation.

TWO FAMILY DWELLING: See DWELLING, TWO FAMILY or DUPLEX.

UNDERLYING ZONING: The zoning classification and regulations applicable to the property prior to the application of any overlay zones or Planned Unit Developments.

UNIVERSITY: See COLLEGE or UNIVERSITY.

USABLE RESIDENTIAL FLOOR AREA: See FLOOR AREA, USABLE RESIDENTIAL.

USABLE NONRESIDENTIAL FLOOR AREA: See FLOOR AREA, USABLE NONRESIDENTIAL.

USE: The purpose for which land, lots, or buildings thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

a. **Use, Accessory:** See ACCESSORY USE, BUILDING, OR STRUCTURE.

b. **Use, Permitted:** A permitted use is a use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such district.

c. **Use, Principal:** The principal use is the main use of land and buildings and the main purpose for which land and buildings exist.

d. **Use, Conditional Land:** See CONDITIONAL LAND USE.

UTILITY TRAILER: A small trailer that is designed to be pulled by an automobile, van, or pick-up truck.

VARIANCE: A modification of the literal provisions of the Zoning Ordinance granted by the Zoning Board of Appeals when strict enforcement of the Zoning Ordinance would cause unnecessary hardship or practical difficulties owing to circumstances unique to the individual property on which the variance is granted.

VEHICLE: See AUTOMOBILE.

VEHICLE, COMMERCIAL: Any vehicle bearing or required to bear commercial license plates or which falls into one or more of the categories listed below:
(1) Truck tractor
(2) Semi-trailer, which shall include flat beds, stake beds, roll-off containers, tanker bodies, dump bodies and full or partial box-type enclosures
(3) Vehicles of a type that are commonly used for the delivery of ice cream, milk, bread, fruit or similar vending, supply, commercial, or delivery trucks. This category shall also include vehicles of a similar nature which are of a type commonly used by electrical, plumbing, heating, cooling, and other construction oriented contractors, as well as mobile food trucks. Vans, pick-up trucks, taxis and other similar passenger vehicles shall be excluded from this category.
(4) Tow trucks
(5) Commercial hauling trucks
(6) Vehicle service repair trucks
(7) Vehicles designed for commercial purposes with blades attached for plowing or grading. This category shall not include private vehicles that are outfitted with blades and/or plows on a seasonal basis.
(8) Construction vehicles such as bulldozers, backhoes and similar vehicles

VETERINARY CLINIC: See CLINIC, VETERINARY.

VETERINARY HOSPITAL: See CLINIC, VETERINARY.

WALL, OBSCURING: A structure of definite height and location to serve as an opaque screen in carrying out the requirements of this Ordinance.

WAREHOUSE: A building used primarily for storage of goods and materials. See also DISTRIBUTION CENTER.

WATERCOURSE: Any waterway or other body of water having well defined banks, including rivers, streams, creeks, and brooks, whether continually or intermittently flowing, and lakes and ponds.

WETLAND: An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that, under normal circumstances, does support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

WETLAND, REGULATED: A wetland regulated by the Michigan Department of Environmental Quality under the provisions of Michigan Public Act 451 of 1994, as amended, and generally defined as land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

a. Contiguous to an inland lake or pond, or a river or stream;

b. Not contiguous to an inland lake or pond, or a river or stream, and more than five (5) acres in size;

c. Not contiguous to an inland or pond, or river or stream; and five (5) acres or less in size if the Michigan Department of Environmental Quality determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the property owner.

WHOLESALE SALES: The sales of goods generally in large quantities and primarily to customers engaged in the business of reselling the goods.

WIRELESS, COLOCATION*:* The location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building.

WIRELESS COMMUNICATION FACILITIES: All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, cellular telephone facilities, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; short wave facilities; ham, amateur radio facilities; satellite dishes; accessory reception antennae facilities regulated by Section 3.16 of this Ordinance; and, governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

WIRELESS COMMUNICATIONS FACILITIES, ATTACHED: Wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established is not included within this definition.

WIRELESS COMMUNICATION SUPPORT STRUCTURES: Structures erected or modified to support wireless communication antennas, including, but not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

YARD: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise permitted in this Ordinance (see definition of SETBACK; also, see illustrations on page 2-39 and 2-40).

a. **Yard, Front:** An open space extending the full width of the lot, the depth of which is the horizontal distance between the front lot line and the nearest line of the principal building. The orientation of the structure on the lot does not impact the determination of the front yard.

~~b.~~ **Yard, Rear:** An open space extending the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and the nearest line of the principal building.

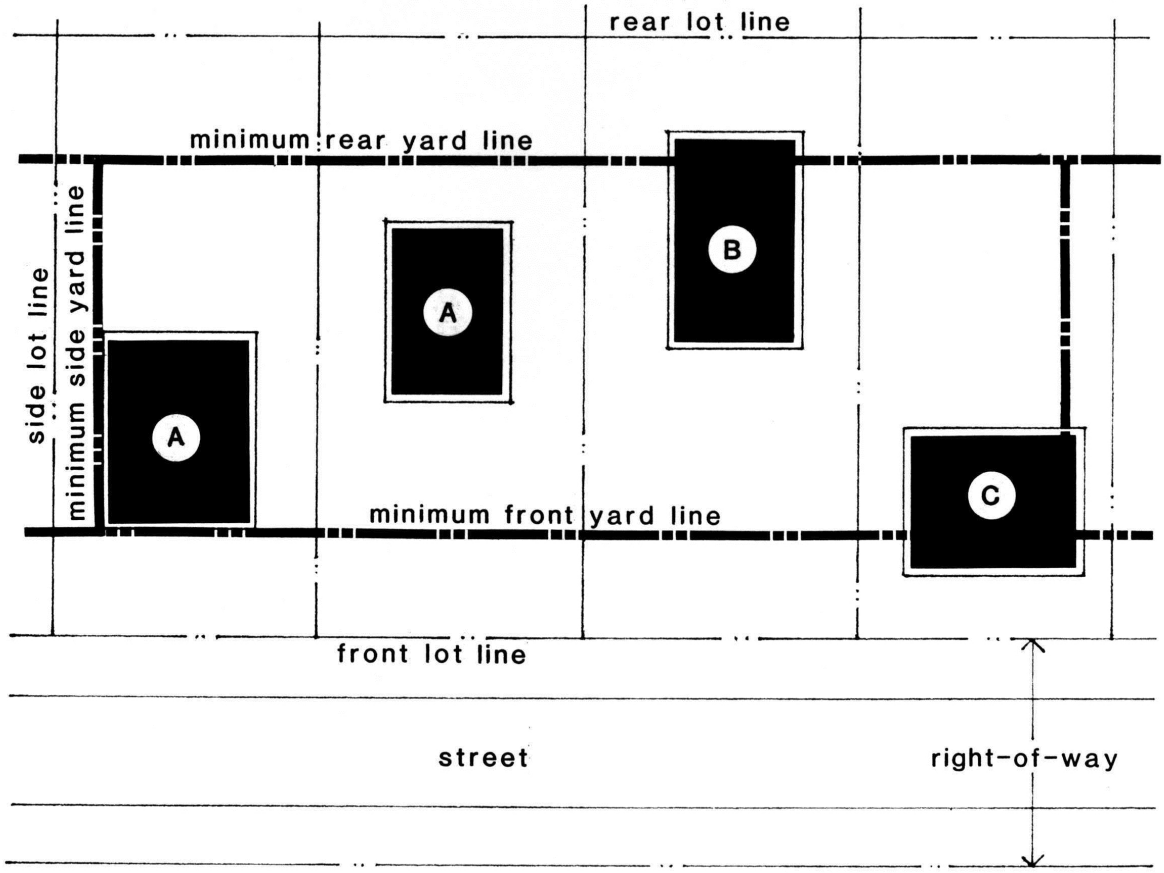
c. **Yard, Side Street**: On a corner or through lot with more than one street lot line, an open space between a principal building and the side lot line separating the lot from the street.

d. **Yard, Side:** An open space between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the horizontal distance from the nearest point of the side lot line to the nearest point on the principal building.

ZONING BOARD OF APPEALS: The Zoning Board of Appeals for the City of Midland. The words "Board of Appeals" or "Zoning Board" shall have the same meaning.

ZONING ENFORCEMENT OFFICER: The Director of Planning and Community Development for the City of Midland, or designee.

ZONING LOT: See LOT, ZONING.



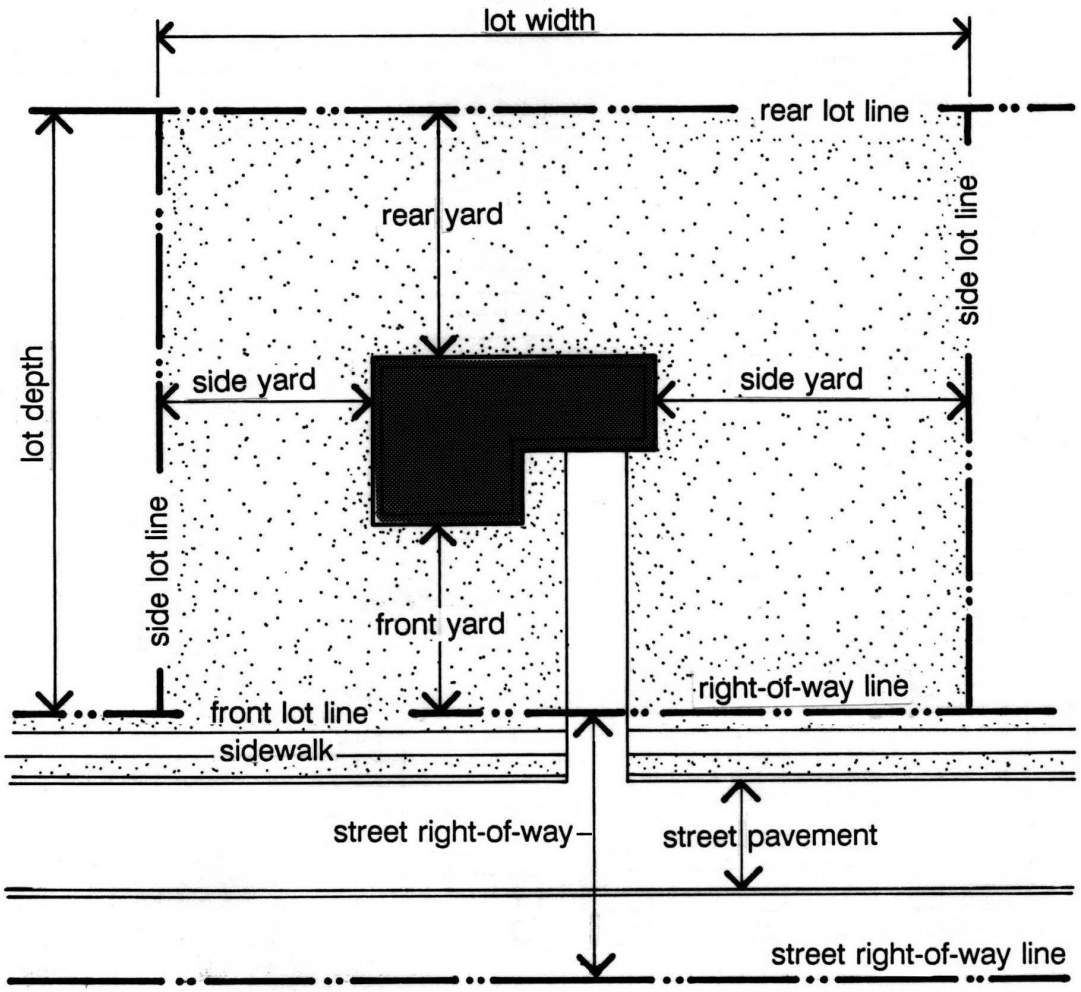
Legend

A Structures satisfying minimum yard requirements

B Structure with deficient rear yard setback

C Structure with deficient front and side yard setbacks

Yard Requirements



Open Space Terms

Section 2.03 – SIGN DEFINITIONS

Whenever used in this Ordinance, the following words and phrases pertaining to signs shall have the meaning ascribed to them in this Section:

ABANDONED SIGN: A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product and/or for which no legal owner can be found.

ADD-ON SIGN: A sign that is attached as an appendage to another sign, sign support, or a building, and is intended to draw attention to the goods or services available on the premises.

ANIMATED SIGN: Any sign which uses movement or change of lighting to depict action or create a special effect or scene (see also FLASHING SIGN).

AWNING: A shelter projecting from and supported by the exterior wall of a building constructed of materials on a supporting framework (see also MARQUEE SIGN).

AWNING SIGN: Sign painted on, printed on or attached flat against the surface of an awning (see also MARQUEE SIGN). A quarter cylinder awning sign is one that uses a rounded shape that is roughly one quarter the distance around a cylinder. This definition is a description of a style and is not intended to be used literally.

BAND SIGN: A sign with a specified area, as defined in the Article 8, on the wall of a building.

BANNER SIGN: A sign made of fabric or any non-rigid material with no enclosing framework.

BEACON LIGHT: Any light with one or more beams, capable of being directed in any direction, or capable of being revolved automatically.

BILLBOARD: See OFF-PREMISES SIGN.

BLADE SIGN: A type of projecting sign mounted on a building façade.

BUILDING: See definition in Section 2.02.

BULLETIN BOARD: A type of "changeable copy" sign which displays the name of an institution, school, library, community center, fraternal lodge, golf course, country club, park or other recreational facility, and which displays announcements of its services and activities upon the premises.

CANOPY, FREESTANDING: A protective roof like covering, often made of canvas, mounted on a frame over a walkway, door, gasoline service station pump island, or other similar features.

CHANGEABLE COPY SIGN (AUTOMATIC): A sign on which the copy changes automatically on a lamp bank or through mechanical or computerized means, e.g., electrical or electronic time and temperature units.

CHANGEABLE COPY SIGN (MANUAL): A sign on which the message is changed manually in the field, e.g., read-a-board with changeable letters.

CLEARANCE (OF A SIGN): The smallest vertical distance between the grade of the adjacent street or street curb and the lowest point of any sign, including framework and embellishments, extending over that grade.

COMMUNITY SPECIAL EVENT SIGN: Signs, banners, and pennants including decorations and displays celebrating a holiday, or special community or school activities.

CONSTRUCTION SIGN: A sign identifying an architect, designer, contractor, sub-contractor, and/or material supplier participating in construction on the property on which the sign is located.

COPY: The wording on a sign surface in either permanent or removable letter form.

DIRECTIONAL OR INFORMATIONAL SIGN: An on-premises sign giving directions, instructions or facility information.

DOUBLE-FACE SIGN: A sign with two (2) faces, which are parallel and no greater than three (3) feet apart.

ELECTION SIGN: A sign used in connection with an election, as defined by state law.

ELECTRICAL SIGN: A sign or sign structure in which electrical wiring, connections or fixtures are used.

ENTRANCEWAY IDENTIFICATION SIGN. A sign identifying a complex or neighborhood.

ERECT: To build, construct, attach, hang, place, suspend or affix signs, including the painting of walls.

FACADE: The entire building front including the parapet.

FACE OF SIGN: The area of a sign on which copy is placed.

FESTOONS: A string of ribbons, tinsel, or small flags.

FLASHING SIGN: A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. Such sign does not include changeable copy signs, animated signs, or signs which, through reflection or other means, create an illusion of flashing or intermittent light (see also ANIMATED SIGN, CHANGEABLE COPY SIGN.

GROUND SIGN: A three dimensional, self-supporting, base-mounted freestanding sign, consisting of two (2) or more sides extending up from the base, and upon which a message is painted or posted. A ground sign may also consist of a base-mounted cylindrical structure upon which a message is painted or posted. See POLE MOUNTED GROUND SIGN and MONUMENT GROUND SIGN.

IDENTIFICATION SIGN: A sign whose copy is limited to the name and address of the building, institution, person or entity and/or to the occupation being identified.

ILLEGAL SIGN: A sign which does not meet the requirements of this ordinance and which has not received legal nonconforming status.

ILLUMINATED SIGN: A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

INCIDENTAL SIGN: A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises, e.g., a credit card sign or sign indicating the hours of business.

INFLATABLE SIGN: A temporary sign consisting of a non-porous bag or balloon inflated with a gas.

INTEGRAL SIGN: Memorial sign or tablet, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials mounted on the face of a building.

MAINTENANCE, SIGN: The cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the basic copy, design or structure of the sign.

MANSARD: A sloped roof or roof-like facade architecturally comparable to a building wall.

MARQUEE SIGN: Any sign attached to or supported by a marquee structure.

MONUMENT GROUND SIGN: A pedestal ground sign provided with a base and not supported by poles, pylons or other upright supports.

MOVING SIGN: A sign in which the sign itself or any portion of the sign moves or revolves. A "rotating sign" is a type of moving sign. Such motion does not refer to the method of changing the message on the sign.

MURAL: A design or representation which is painted or drawn on the exterior surface of a structure and which does not advertise a business, product, or service.

NAMEPLATE: A non-electric on-premise identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

NEON SIGN: See OUTLINE TUBING SIGN.

NONCONFORMING SIGN: A sign which was erected legally but which does not comply with subsequently enacted sign restrictions and regulations.

OBSOLETE SIGN: A sign that advertises a product that is no longer made, a business that is no longer in operation, or an activity or event that has already occurred.

OFF-PREMISE ADVERTISING SIGN: A sign structure advertising an establishment, business, merchandise, service or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located, e.g., billboards or outdoor advertising.

ON-PREMISE ADVERTISING SIGN: A sign which pertains to the use of the premises on which it is located.

OUTLINE TUBING SIGN: A sign consisting of glass tubing, filled with a gas such as neon, which glows when electric current is sent through it.

PAINTED WALL SIGN: Any sign which is applied with paint or similar substance on the face of a wall.

PARAPET: The extension of a false front or wall above a roof line.

PEDESTAL SIGN: See GROUND SIGN.

PERSONAL SPECIAL OCCASION SIGN: A temporary sign announcing special events of a personal nature: e.g. birthday, anniversary, birth of a child, which relate to the occupant of the property on which the sign is located.

POINT OF PURCHASE DISPLAY: Advertising of a retail item accompanying its display, e.g., advertisement on a product dispenser.

POLE MOUNTED GROUND SIGN: A sign installed upon and in the ground by poles or braces and not attached to any building.

POLITICAL SIGN: See ELECTION SIGN.

PORTABLE SIGN: Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

POSTER PANEL: A type of temporary sign that is used to draw attention to matters that are temporary in nature, such as price changes or sales, e.g., "A" frame or sandwich signs.

PROJECTING SIGN: A sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.

PUBLIC SIGN: A sign erected in the public interest by or upon orders from a local, state, or federal public official. Examples of public signs include: legal notices, safety signs, traffic signs, memorial plaques, signs of historical interest, park signs, signs identifying public buildings, and similar signs.

REAL ESTATE SIGN: A sign advertising the real estate upon which the sign is located as being for sale, lease, or rent.

REAL ESTATE DEVELOPMENT SIGN: A sign that is designed to promote the sale or rental of lots, homes, or building space in a real estate development (such as a subdivision or shopping center) which is under construction.

ROOF LINE: The top edge of a roof or building parapet, whichever is higher, excluding cupolas, pylons, chimneys, or similar minor projections.

ROOF SIGN: Any sign erected on the roof of a building (see also MANSARD, WALL SIGN).

SANDWICH SIGN: A temporary sign which consists of two boards upon which a message is posted, and which are hinged at the top and are open at the bottom so that the boards can lean against each other when placed on the ground.

SIGN: Any surface, fabric, device or display which bears lettered, pictorial or sculptured matter, including forms shaped to resemble any human, animal or product, designed to convey information visually and which is exposed to public view. For the purpose of the section, the term “sign” shall include all structural members and embellishments. A sign shall be constructed to be a display surface or device containing organized and related elements composed to form a single unit. In cases where matter is displayed in a random or unconnected manner without organized relationship of components, each such component shall be considered to be a single sign.

SIGN, AREA OF, (ALLOWABLE COPY AREA): See Section 8.05 C.

SUBDIVISION IDENTIFICATION SIGN: A ground or wall sign identifying a subdivision, condominium complex, or residential development.

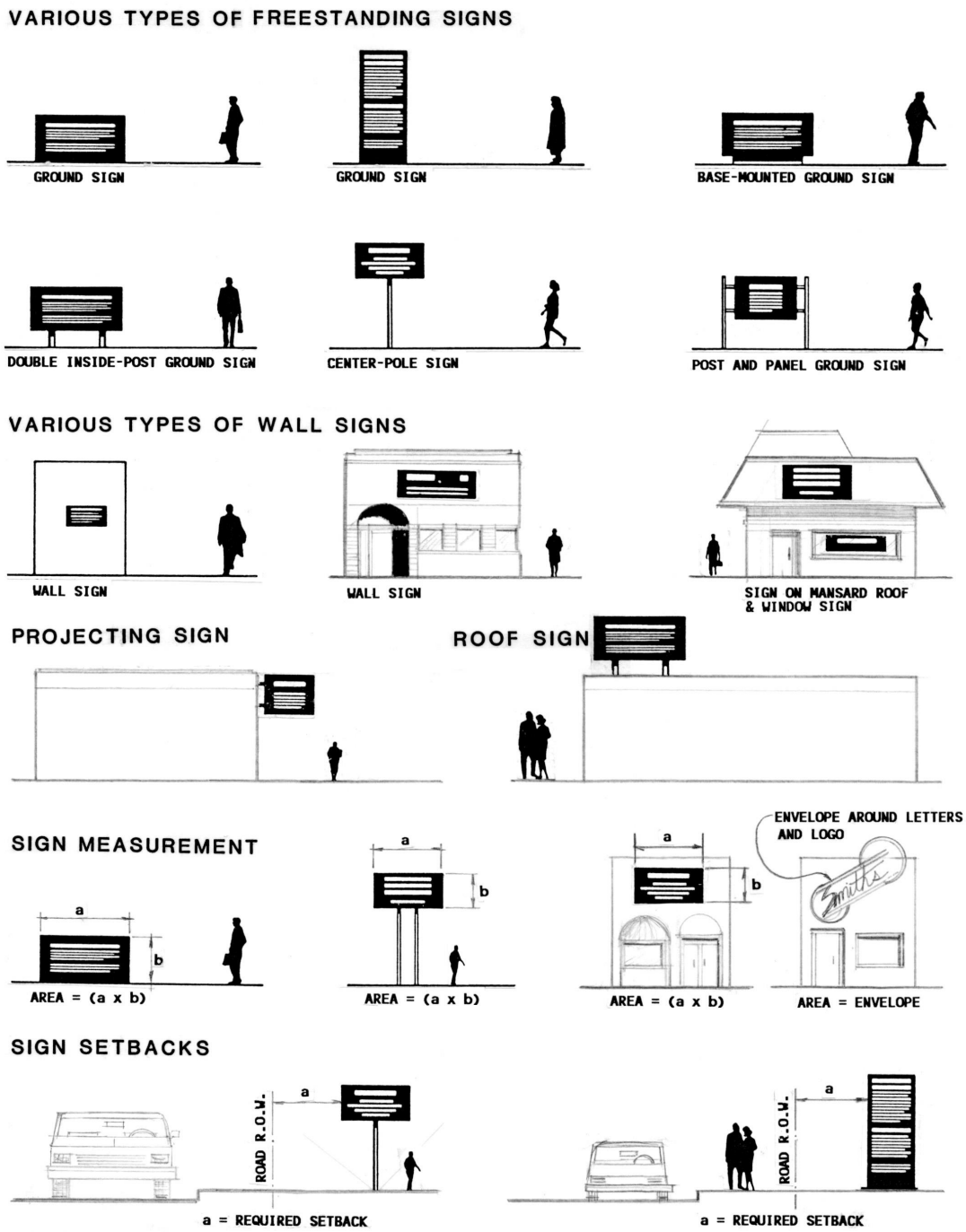
TEMPORARY SIGN: A sign not constructed or intended for long term use. Examples of temporary signs include signs which announce a coming attraction, a sale or bargain, a new building under construction, a community or civic project, or other special events that occur for a limited period of time (see also INFLATABLE SIGN).

UNDERCANOPY SIGN: A sign suspended beneath a canopy, ceiling, roof or marquee.

VEHICLE SIGNS: Signs painted or mounted on the side of a vehicle, including signs on the face of a truck trailer.

WALL SIGN: A sign attached parallel to and extending not more than twelve (12) inches from the wall of a building. This definition includes painted, individual letter and cabinet signs, and signs on a mansard.

WINDOW SIGN: A sign installed inside or outside a window and intended to be viewed from the outside.



Illustrations of Sign Definitions and Standards

ARTICLE 3.00

GENERAL PROVISIONS

Section 3.01 -- ADMINISTRATIVE REGULATIONS

A. Scope of Regulations

No structure or tract of land, or part thereof, shall hereafter be used or occupied, and no structure, or part thereof, shall be erected, altered, or moved, except in conformity with the provisions of this Ordinance.

Furthermore, any business or organization in violation of local, state or federal law is prohibited from locating or operating within the city limits of Midland.

However, where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this Ordinance and construction is begun within six (6) months of the effective date, said building or structure may be completed in accordance with the approved plans. Any subsequent text or map amendments shall not affect previously issued valid permits.

B. Minimum Requirements

The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of public health, safety, convenience, comfort, and general welfare.

C. Relationship to Other Ordinances or Agreements

Except as noted in Section 32.02, this Ordinance is not intended to repeal or annul any ordinance, rule, regulation, permit, easement, covenant, or other private agreement previously adopted, issued, or entered into and not in conflict with the provisions of this Ordinance.

However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than other such ordinances, rules, regulations, permits, easements, covenants, or other private agreements, the requirements of this Ordinance shall govern.

Where applicable, this ordinance incorporates all aspects of the Tri City Area Joint Airport Zoning Ordinance, as amended, into its requirements.

D. Vested Right

Nothing in this Ordinance should be interpreted or construed to bestow any permanent vested rights in the continuation of any particular use, district, zoning classification, or permissible activities therein. Furthermore, such rights as may exist through enforcement of this Ordinance are hereby declared to be subject to subsequent amendment, change or modification as may be necessary for the preservation or protection of public health, safety, and welfare, to the extent that such rights are not protected by the nonconforming use provisions in Article 4.00.

E. Continued Conformity with Yard and Bulk Regulations

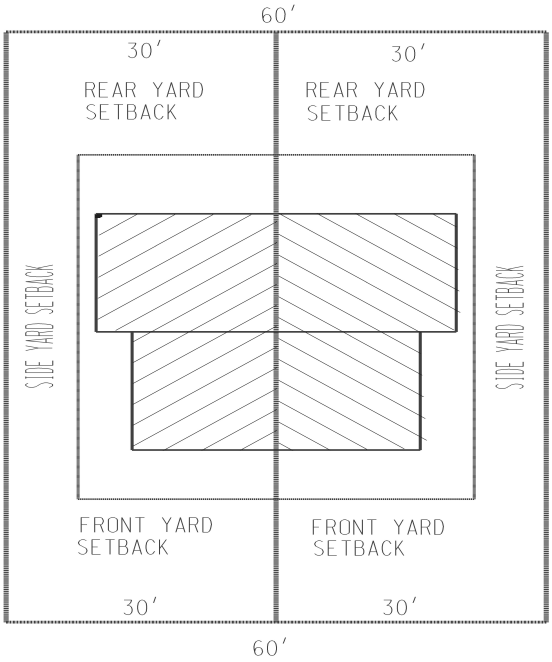
The maintenance of yards and other open space and minimum lot area legally required for a structure shall be a continuing obligation of the owner of such structure or of the property on which it is located, for as long as the structure is in existence. No open space shall be encroached upon nor shall any structure be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which the structure is located. Where all or a

portion of a lot has been dedicated specifically to an existing or planned use or structure to achieve compliance with Ordinance requirements, said lot or portion thereof, shall not be used in connection with another building, structure or use to achieve compliance with Ordinance requirements.

F. Division and Consolidation of Land

The division and consolidation of land shall be in accordance with the Land Division Act, Michigan Public Act 288 of 1967, as amended and the City of Midland Land Division Ordinance. No lot or parcel division into two (2) or more lots shall be approved unless all lots resulting from each such division or sale conform to all regulations of the zoning district in which the property is located.

This shall not prohibit the dividing of the ownership of a duplex structure and its lot, when said duplex structure has been constructed in accord with the requirements of this Ordinance and a deed restriction prohibiting construction of detached dwellings on the resulting lots is recorded.



G. Unlawful Buildings, Structures, Site Designs and Uses

A building, structure, or use that did not lawfully exist at the time of adoption of this Ordinance shall not be made lawful solely by adoption of this Ordinance. In case any building, structure, or part thereof, is used, erected, occupied or altered contrary to the provisions of this Ordinance, such building, structure or use shall be deemed an unlawful nuisance and may be required to be vacated, torn down or abated by any legal means, and shall not be used or occupied until it has been made to conform to the provisions of this Ordinance. Public expenditures toward abating any such nuisance shall become a lien upon the land.

H. Voting Places

The provisions of this ordinance shall not be construed to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

I. Restoring Unsafe Buildings

Nothing in this ordinance shall prevent the strengthening or the restoration to a safe condition of any part of any building or-structure declared unsafe by the Building Official or required compliance with this lawful order as specified in Article 4.00.

Section 3.02 -- ALLOWABLE USES

No structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any structure or land be used, designed or arranged for any purpose other than is permitted in the zoning district in which the structure or land is located.

Section 3.03 -- ACCESSORY BUILDINGS AND STRUCTURES

A. General Requirements

1. Timing of Construction

No accessory structure, including private garages and utility structures, shall be constructed upon or moved to any parcel of property unless:

a. there is a principal building, or use being constructed or already existing on the same parcel of land; or

b. a sufficient performance guarantee is provided to ensure removal of the accessory building if the principal building, structure or use is not commenced within 30 days and continues to proceed meaningfully towards completion.

2. Location in Proximity to Easements or Right-of-Way

Accessory structures, or uses shall not be located within a dedicated easement or right-of-way, unless the terms of the easement or right-of-way specifically permit such buildings, structures, or uses.

3. Attached Accessory Buildings and Structures

Unless otherwise specified in this Section, accessory buildings and structures which are attached to the principal building or structure (such as an attached garage, breezeway, or workshop) shall be considered a part of the principal building or structure for the purposes of determining conformance with area, setback, height, and bulk requirements.

4. Use Restrictions

No accessory structure shall be used in any part for dwelling purposes.

5. Applicability of Other Codes and Ordinances

Accessory structures shall be subject to all other applicable codes and ordinances regarding construction, installation, and operation. A zoning compliance permit, as outlined in Section 31.06, shall be required for all accessory structures with floor area between 50 and 200 square feet. Any accessory structure greater than 200 square feet in floor area shall require a building permit.

6. Foundations

All Accessory structures with a floor area between 50 and 200 square feet shall be required to have a rat wall foundation that extends a minimum of 12” below surrounding grade. The rat wall foundation shall be constructed from concrete, block or foundation grade lumber and conforms to the Michigan Building Code. An accessory structure may also be placed on a concrete or asphalt slab which extends a minimum of two (2) feet horizontally from all four sides of the structure.

7. General Requirements

Accessory structures shall be only located in the rear or side yards and shall comply with height, setback, and lot coverage requirements for accessory structures, unless otherwise permitted in this Ordinance.

8. Exceptions to Accessory Structure Standards

a. Antennae shall comply with the height standards specified in Section 3.16.A.

b. Such accessory structures as ornamental light fixtures, flag poles up to 28', other ornamental fixtures, basketball backboards, and play equipment (excluding swimming pools), may be located in the front yard, but shall be no closer than six (6) feet to any front or side lot line.

c. Above ground swimming pools with attached decks must comply with Table 3.2.

9. Outdoor Burners
Outdoor burners, including wood, corn, coal and other similar burners that generate smoke, are prohibited in all districts.

10. Small Wind Energy Systems (SWES)
Small wind energy systems as defined by this ordinance are permitted in all districts. Free standing SWES are permitted to a height of twenty-eight (28') feet. SWESs attached to existing structures are permitted to a height of forty-eight (48') feet.

B. Accessory Structures in Agricultural, RA-1, RA-2, RA-3, RA-4 and RB Zoning Districts

1. Location of Detached Accessory Structures
Detached accessory structures or portions thereof, shall not be erected in nor extend into the front yard area.

A detached accessory structure may be located in a rear or side yard provided that all requirements of this Section are met.

2. Setbacks of Detached Accessory Structures
An accessory structure in an agriculturally or residentially zoned district shall be in compliance with all setback requirements in the table below, and other standards of this ordinance:

Table 3.1: DETACHED ACCESSORY STRUCTURE SETBACK REQUIREMENTS

Setback From	Minimum Setback	Comments
Front lot line	Front yard (front building line of house)	For a double frontage lot, the minimum setback from the side street lot line is 20 feet.
Side street lot line	Side street yard (side building line of house)	For a private detached garage with direct access to the side street, the minimum setback is 20 feet.
Side lot line	Required side yard for principal building (See Section 26.02)	Required setback from the side lot line is 3 feet when in the rear yard.
Rear lot line	3 feet	For a detached accessory structure in a multiple-family complex of 2 or more principal buildings, the minimum setback is 10 feet.
Principal Building	6 feet	All structures shall comply with setback and fire rating requirements in the Building and Fire codes.

Other accessory structures	6 feet	All structures shall comply with setback and fire rating requirements in the Building and Fire codes.

3. Size and Lot Coverage

a. Detached accessory structures in rear yards shall not occupy more than thirty-five percent (35%) of the required rear yard.

b. Detached accessory structures shall not have more than eight hundred (800) square feet of gross floor area, unless they are located on parcels with greater than two (2) acres of land.

c. For land parcels greater than two (2) acres, the area of the detached accessory structures shall not exceed the usable residential floor area of the ground floor of the principal building, excluding the floor area of all attached garages.

d. The total floor area of all attached accessory structures, including attached garages, shall not exceed the usable residential floor area of the ground floor of the principal building.

4. Height

Detached accessory structures shall not exceed sixteen (16) feet, unless otherwise allowed in this ordinance**.**

5. Number of Permitted Accessory Buildings

For any single-family or duplex dwelling unit, the following shall apply:

a. If any portion of the principal building is defined as a private garage, one (1) additional accessory building is permitted per lot or parcel.

b. If the private garage is detached from the principal building, one (1) additional accessory building is permitted per lot or parcel.

c. Two detached accessory buildings are permitted for duplexes sharing a common side by side wall.

C. Accessory Structures in the Residential D Zoning District

All accessory structures in the Residential D Zoning District shall be in compliance with all requirements and standards in Article 16.00.

D. Accessory Structures in Community, Office, Commercial, LCMR and Industrial Zoning Districts

1. Setbacks

An accessory structure in a Community, Office, Commercial, LCMR, or Industrial Districts shall be in compliance with all setback requirements of the principal building, and other standards of this ordinance, except as follows:

a. For allowed residential uses, detached accessory structures shall be located at least ten (10) feet from any other structure.

b. Accessory structures on double frontage lots shall observe front yard setback requirements on both street frontages.

Section 3.04 -- LAWFUL USE OF A STRUCTURE AS A DWELLING UNIT

Any incomplete structure that does not meet the requirements of the Building Code or this Ordinance shall not be issued a Certificate of Occupancy and shall not be used as a dwelling. For the purposes of this section, a basement that does not have a residential structure constructed above it shall be considered an incompletely constructed structure. The restrictions shall not prevent temporary use of structure as a residence in accordance with Section 3.07.

Section 3.05 -- RESIDENTIAL DESIGN STANDARDS

Any residential structure, including manufactured housing not located in manufactured housing parks, shall be erected or constructed in compliance with the following residential design standards.

A. Area and Bulk Regulations

Manufactured housing shall comply with all regulations normally required for site-built housing in the zoning district in which it is located, unless specifically indicated otherwise herein. No side of a footprint of a residential building may be less than twenty (20) feet.

B. Foundation

Any residential structure, including manufactured housing, shall be placed on a permanent foundation to form a complete enclosure under the exterior walls. The foundation shall be constructed in accordance with the adopted building code of the City. Manufactured housing shall be securely anchored to its foundation in order to prevent displacement during windstorms. The wheels, tongue and hitch assembly, and other towing appurtenances, shall be removed before attaching a manufactured housing unit to its permanent foundation.

C. Other Regulations

Residential structures shall be constructed in compliance with applicable state, Federal, or local laws or ordinances, including the adopted building code of the City.

D. Floodplain

All dwelling units, including manufactured housing, shall comply with Chapter 5, Section 5-5 of the City of Midland Code of Ordinances regarding location within a flood plain.

E. Use

Manufactured housing and other structures shall be used only for the purposes permitted in the zoning district in which they are located.

F. Attachments

Any exterior attachments or extensions onto a dwelling unit, such as entry steps and storage buildings, shall comply with the adopted building code.

Section 3.06 -- HOME OCCUPATIONS

A. General Requirements

Home occupations shall be subject to the requirements of the zoning district in which they are

located, and are subject to the following standards, unless otherwise specified elsewhere in this Ordinance:

1. Home occupations shall be clearly incidental and secondary to the use of the dwelling as a residence.
2. No more than one-third (1/3) of the habitable floor space of the residence may be used for the home occupation.
3. No persons are employed other than the dwelling occupants.
4. No such home occupation may be conducted in any accessory structure or attached garage.
5. One (1) sign not exceeding two (2) square feet in area.
6. No outdoor display and/or storage of materials, goods, supplies, or equipment used in the home occupation or business shall be permitted on the premises in residential districts.
7. Sales accessory to services associated with the home occupation are permitted when such activity does not generate vehicular or pedestrian traffic in greater volumes than would normally be expected in a residential neighborhood and goods pertaining to the home occupation are not visible from the street.
8. Automobile repair facilities, automobile bump and paint shops, junkyards, automobile storage, new and used vehicle sales and similar uses are prohibited as home occupations.
9. Garage, yard and rummage sales shall be excluded from the provisions of this section unless they occur with regular frequency.
10. Such uses shall not:
    a. change the character or appearance of the residence;
    b. result in any signs or displays on the premises, except as permitted herein;
    c. require equipment other than what would commonly be found on a residential premises

Section 3.07 -- TEMPORARY BUILDINGS, STRUCTURES AND USES

A. General Requirements

Temporary buildings and structures shall comply with the following requirements:

1. Temporary Buildings, *or* Structures Used for Residential Purposes

A building or structure may be approved for temporary residential use only while damage to the principal dwelling due to fire, flood, ice, wind, or other natural disaster is being repaired.

Also, a manufactured housing unit or other approved living quarters may be occupied as a residence on a temporary basis on sites for which a building permit has been issued for construction of a new dwelling unit, or for major repair or remodeling of an existing dwelling unit subject to the following:

a. Such permits may be issued by the Building Official for up to six (6) months in duration and may be renewed for two (2) periods of up to six (6) months, provided that work is

proceeding in an expeditious manner.

b. The total duration of a temporary permit shall not exceed one and one-half (1.5) years.

c. A request for an extension shall be submitted in writing to the Building Official no less than two (2) weeks prior to the expiration of the permit.

d. Temporary structures shall comply with the setback standards for the district in which they are located.

e. An approved temporary structure may be moved onto a site fourteen (14) days prior to commencement of construction and shall be removed within fourteen (14) days following issuance of a Certificate of Occupancy for the permanent dwelling.

f. The applicant may be required to furnish the City with a performance guarantee in an amount determined by the Building Official to assure removal of the temporary structure and a notarized affidavit that the temporary dwelling will be removed before issuance of a Certificate of Occupancy on the new dwelling.

2. Temporary Buildings or Structures Used for Nonresidential Purposes during Construction

Temporary buildings or structures for nonresidential use, including semi- trucks/trailers and concrete batch plants, shall be permitted only when the intended use is by a contractor or builder in conjunction with a construction project, and only after review and approval by the Building Official. Such temporary structures shall be removed immediately upon completion of the construction project and prior to a request for a Certificate of Occupancy for the project.

2. Temporary Outdoor Uses.

a. Temporary outdoor uses are permitted by administrative review and issuance of a Temporary Outdoor Use Permit. These uses are:
   i. Any use where a tent or other temporary structure will be used. These may include car ports, pods, semi trailers, etc.
   ii. Any outdoor use where electricity will be used.
   iii. Any use selling food items to the public.
   iv. Outdoor sales of any items.
   v. Outdoor fundraising events on public or private property.

b. Garage, rummage and yard sales are excluded from this requirement but may only be held (3) three times per year for no longer than (3) three days for each sale.

Section 3.08 -- USES OTHERWISE NOT INCLUDED WITHIN A DISTRICT

The Director of the Planning and Community Development Department shall have the authority to determine if a use that is not cited by name as a permitted use in a Zoning District may be permitted because the proposed use is clearly similar in nature and compatible with the listed uses in the district. No use shall be permitted in a district under the terms of this section if the use is specifically listed as a use permitted by right or as a conditional land use in any other district.

Section 3.09 -- YARD AND BULK REGULATIONS

A. General Regulations

All lots, buildings, and structures shall comply with the following general yard and bulk regulations

unless specifically stated otherwise in this Ordinance:

1. **Minimum Lot Size**
   Every lot or parcel of land created subsequent to the effective date of this Ordinance shall comply with the lot size, lot coverage, and setback requirements for the district in which it is located. Space which has been counted or calculated as part of a side yard, rear yard, front yard, courtyard, lot area or other open space requirement of this Ordinance shall not be counted or calculated to satisfy or comply with a yard or bulk regulation requirement for any other building or structure. No yards in existence on the effective date of this Ordinance, shall subsequently be reduced below, or further reduced if already less than, the minimum yard requirements of this Ordinance.

2. **Double Frontage Lots**
   On double frontage lots both street rights-of-way shall be considered front lot lines and front yard setbacks shall apply, except if a frontage is controlled by access restrictions, rear yard setbacks shall apply to said frontage.

3. **Flag Lots**
   On a lot which is located behind other parcels or lots fronting a public or private road, but which has a narrow extension to provide access to the public or private road, the width of the extension shall adhere to the minimum lot width standards for the district in which the lot is located.

4. **Number of Principal Uses per Lot**
   Only one principal building shall be placed on a lot of record or parcel in single-family residential districts RA-1, RA-2, RA-3, RA-4. In a single family site condominium project, only one principal building shall be placed on each condominium lot, as defined in Section 2.02.

5. **Projections into Required Yards**
   Fire escapes, fire towers, chimneys, platforms, balconies, access wells in ingress/egress windows, boiler flues, and similar projections shall be considered part of the building, subject to setback requirements for the district in which the building is located. However, projections into required yards shall be permitted as listed in Table 3.2:

Table 3.2: PROJECTIONS INTO YARDS
The following projections are permitted in any required yard, except as noted:

Projection	Yards Where Allowed	Restrictions
Air conditioning equipment (pad mounted)	All	Not permitted in front yards in residential districts
Access drives	All	None
Arbors and trellises	All	None, unless located in the front or side yards. A six (6) foot setback from front or side lot lines is required.
Awnings and canopies	All	May project 10 percent or less of yard depth
Bay windows[1]	All	See footnote 1
Balconies	Rear	Shall project no more than six (6) feet into required rear yard setback
Belt Courses	All	Shall project no more than three (3) feet into any yard
Boiler Flues	All	Shall project no more than three (3) feet into any yard
Chimneys	All	Shall project no more than three (3) feet into any yard
Cornices[1]	All	Shall project no more than three (3) feet into any yard
Downspouts	All	None
Eaves, overhanging	All	Shall project no more than three (3) feet into any yard
Egress Window Wells	All	Shall project no more than three (3) feet into any yard

Table 3.2: PROJECTIONS INTO YARDS
The following projections are permitted in any required yard, except as noted:

Projection	Yards Where Allowed	Restrictions
Elevator Shafts	Rear	Shall not project more than six (6) feet into rear yard
Fences	See Article 7.00	
Fire Escapes, Fire Towers	Rear	Shall project no more than six (6) feet into any rear yard setback
Flagpoles	All	See section 3.03, sub-section E
Gardens	All	None
Gutters	All	Shall project no more than three (3) feet into any yard
Hallways, connecting	Rear	Shall not project more than six (6)feet into any rear yard
Handicapped access ramps[2]	All	See footnote 2
Hedges	All	None
Leaders	All	Shall project no more than three (3) feet into any yard
Light poles, ornamental	All	None
Lintels	Rear	Shall not project more than six (6)feet into any rear yard
Ornamental Features	Rear	Shall not project more than six (6)feet into any rear yard
Paved terraces, uncovered porches, patios, decks, and steps[3]	All	See footnote 3
Pilasters	All	Shall project no more than three (3) feet into any yard
Propane tanks	All	Not permitted in front yards in Residential Districts
Approved signs	All	See Article 8.00
Sills	All	Shall project no more than three (3) feet into any yard
Stairways, open unroofed	Rear	Shall project no more than six (6) feet into any rear yard setback
Television or radio towers or antennas	All	Not permitted in front yards in Residential Districts
Trees, shrubs, and flowers	All	None
Walls	See Article 7.00	
Window air conditioning units	All	None

Notes Related to Table 3.2

1. Bay Windows
   Bay windows, including their window sills, belt courses, cornices, eaves, overhanging eaves, and other architectural features may project into a required yard subject to the following conditions:
   a. Such structures shall not project into any required side yard more than one-third (1/3) of its required width nor more than three (3) feet, provided that the length of any such projection shall not exceed one-third (1/3) of the length of the side yard in which such projection occurs.
   b. Such structures shall not project into any required rear yard more than three (3) feet.

2. Handicapped Access Ramps
   Handicap access ramps in all residential zoning districts are exempt from front, rear, and side yard building setback standards and maximum lot coverage formulas.

3. Paved Terraces, Uncovered Porches, Patios, Decks, and Steps
   Open paved terraces, uncovered porches, patios, decks, and steps above grade may project into a yard subject to the following conditions:

   a. Such structure shall not be located closer than ten (10) feet from the front or street lot line.
   b. Such structure shall not be located closer than ten (10) feet from the rear lot line.
   c. Such structure shall not be located closer than six (6) feet from any accessory building or structure.

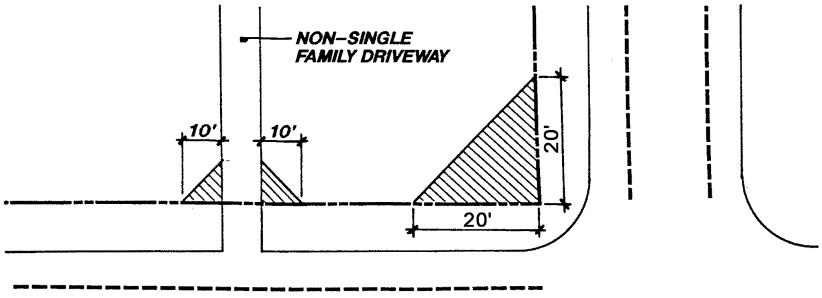
d. Such structure shall not be located closer than five (5) feet from the side lot line.
e. Uncovered porches existing at the time of adoption of this ordinance, meeting Items a. – d. of this section, and may be covered but not enclosed, provided they do not project more than six (6) feet into the required front yard. These porches may extend the full front of the dwelling.

6. Unobstructed Sight Distance

a. No vehicles**,** fence, wall, structure, or planting shall be erected, established, or maintained on any lot which will obstruct the view of drivers in vehicles approaching an intersection of two roads or the intersection of a road and a driveway for all uses other than a single-family or two-family residence (see diagram on page 3-12) with the following exceptions:

(1) Fences, walls, structures, or plantings located in the triangular unobstructed sight area described below shall not be permitted to obstruct cross-visibility and shall not exceed a height of two and one half (2 ½) feet above the top of the curb unless the fence has less than or equal to 20% of the vertical surface opaque so as not to obstruct vision or prevent observation of activities enclosed within the fence.

(2) Trees shall be permitted in the triangular area provided that limbs and foliage are trimmed so that they do not extend into the cross-visibility area or otherwise create a traffic hazard.



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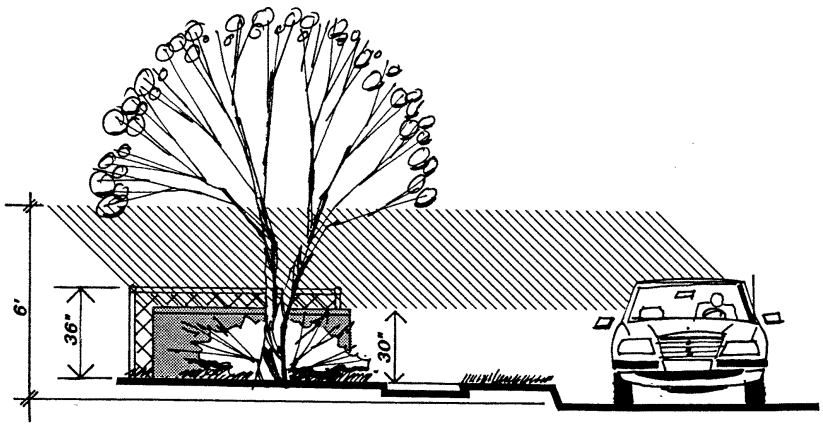


ELEVATION

Clear Vision Zones

b. Unobstructed Sight Area. The unobstructed triangular area is described as follows:

(1) The area formed at the corner intersection of two public right-of-way lines, the two (2) sides of the triangular area being twenty (20) feet in length measured along abutting public rights-of-way lines, and third side being a line connecting these two sides, or

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

c. Where the unobstructed sight area or a portion thereof, is held in separate ownership, all required setbacks, including the sight obstruction setback requirements, shall be applied as though the property is held in common ownership.

7. Relocation of Existing Buildings
No existing building or structure shall be relocated upon any parcel or lot in The City of Midland unless the building or structure conforms to all zoning and building code requirements for the district in which the building or structure is to be located and a building permit has been secured.

8. **Building Height Conformance**
No building or structure shall be constructed upon any parcel or lot in the City of Midland unless the building or structure's height conforms to the regulations promulgated in the Tri-City Area Joint Airport Zoning Ordinance as amended.

Section 3.10 – COMMERCIAL DRIVEWAYS

A. Intent

The intent of this section is to establish standards for driveway spacing and the number of driveways permitted during the site plan review process. The standards of this section are intended to promote safe and efficient travel within the City; minimize disruptive and potentially hazardous traffic conflicts; separate traffic conflict areas by reducing the number of driveways; provide efficient spacing standards between driveways, and between driveways and intersections; protect the substantial public investment in the street system; and to ensure reasonable access to properties, though not always by the most direct access.

The standards herein apply to site plans and plats along roads which are under the jurisdiction of the City of Midland, Midland County Road Commission, Bay County Road Commission or Michigan Department of Transportation (MDOT). Those agencies have driveway design and permit requirements; however, those general standards may not be sufficient to meet the particular traffic issues and objectives of The City of Midland. Therefore, the driveway standards herein may be more restrictive than those provided by the road agencies. Construction within the public right-of-way under the jurisdiction of Midland or Bay County or MDOT still shall also meet the permit requirements of the road agency. Where any conflicts arise, the more stringent standard shall apply.

The City of Midland's Master Plan presents four (4) specific goals to further improve the overall transportation network in our community. This section strives to implement Goal 1 by regulating the placement of commercial driveways to ensure that all developments are constructed to a standard that maximizes pedestrian and vehicular safety and minimizes risks and negative impacts of new commercial development:

Goal 1: Maintain and improve safety and efficiency in the transportation system to support land use patterns and ensure that Midland remains an attractive place to live, work, and

visit.

B. General Standards for Driveway Location

1. Driveways shall be located so as to minimize interference with the free movement of traffic, to provide adequate sight distance, and to provide the most favorable driveway grade.

2. Driveways, including the radii but not including right turn lanes, passing lanes and tapers, shall be located entirely within the right-of-way frontage, unless otherwise approved by the City of Midland.

3. Spacing between driveways where traffic signals are involved shall meet the requirements for spacing of driveways from street intersections as shown in Table 3.5

4. Arterials**,** collectors, and local streets are as classified in the City of Midland Master Plan.

C. Commercial Driveway Spacing Standards for a Parcel

Each parcel on which a commercial or industrial development is located on shall be permitted one (1) commercial driveway to provide reasonable access for regular traffic and emergency vehicles, while preserving traffic operations and safety along the public roadway. Additional driveways may be permitted for a property only under one of the following:

1. One (1) additional driveway may be allowed for properties with a continuous frontage of over three hundred (300) feet if it is determined there are no other reasonable access opportunities, provided the additional driveway complies with the requirements in subsection D, below.

2. On parcels with frontage along two (2) streets, one driveway may be permitted to each street provided that proper driveway spacing is achieved from the roadway intersection as shown in Table 3.5.

3. When considering additional driveway placement, Table 3.3 and the following criteria shall be reviewed:

   a. Will not be detrimental to public safety.

   b. Will not be detrimental to the safety and operation of the street.

   c. Are necessary for safe and efficient use of the property.

   d. Will prevent/reduce traffic congestion and confusion, based on a traffic impact study. (See Section 3.10(I))

4. For parcels that are not a corner lo**t**, one-way drives may be permitted provided the driveway approaches comply with the commercial driveway spacing standards in subsection D, below.

D. Commercial Driveway Spacing Standards for Separate Parcels

1. S**pacing between driveways on separate parcels or developments:** The minimum spacing between two commercial driveways shall be determined based upon posted speed limits along the parcel frontage as shown in Table 3.3. The minimum spacing indicated below is based on Michigan Department of Transportation Guidelines and are measured between driveway centerlines. The minimum spacing between driveways may be

reduced if one driveway has a traffic signal.

Table 3.3: Minimum Spacing Between Driveways on Separate Parcels

Posted Speed Limit (MPH)	Minimum Driveway Spacing – Same Side of the Street (Ft)		
	Arterials[2]	Collector Roadways [2]	Local Roadways
25	130[1]	105	N/A
30	185[1]	125	50
35	245[1]	150	75
40	300	185	100
45	350	230	100
50	455	275	100
55	455+	275+	100

[1] If adjacent parcels are over 300 feet in width, then the minimum spacing between driveways shall be 300 feet.
[2] Collector and Arterial Roadways may require more restrictive spacing based on local conditions

Table 3.3 General Notes:

- Spacing between driveways is measured centerline to centerline.
- Driveways shall be placed as far from adjacent driveways as practical.
- Driveway sharing or driveway cross access with adjacent parcels may apply when minimum spacing is not possible and at the discretion of the City.
- Spacing of driveways from intersections takes precedence over spacing from other driveways.

For site with insufficient street frontage to meet the above criterion, the following alternatives may be considered:

a. Construction of the driveway may be required along a side street. A shared driveway with an adjacent property may be used.

b. Construction of a driveway along the property line farthest from the intersection.

c. A service/frontage road as described in Sections 3.10(E) and 3.10(F) may be required.

2. **Spacing between driveways on the opposite sides of the street:** To reduce left-turn conflicts, new commercial driveways shall be aligned with driveways or streets on the opposite side of the roadway where possible. Spacing between driveways on opposite side of a street shall be indicated in Table 3.4. For sites with insufficient street frontage to meet the above criterion, it may require construction of the driveway along a side street, a shared driveway with an adjacent property, construction of a driveway along the property line farthest from the intersection or require a service/frontage road as described in Sections 3.10(E) and 3.10(F).

SPACING BETWEEN DRIVEWAYS
ON OPPOSITE SIDES OF THE STREET

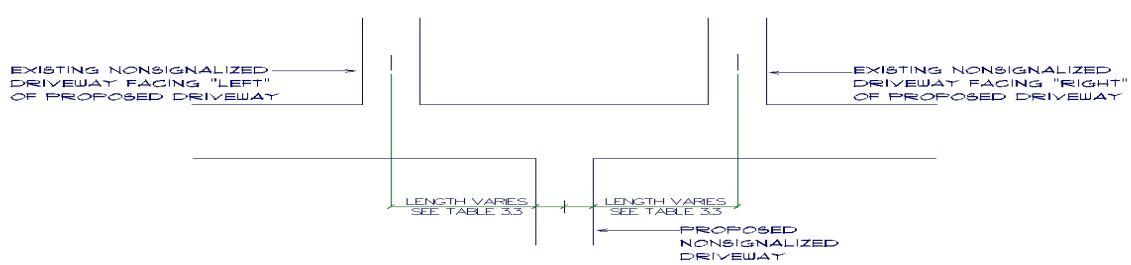


Table 3.4: Spacing Between Driveways on Opposite Sides of the Street

Posted Speed Limit (MPH)	Minimum Driveway Spacing – Opposite Side of the Street (Ft)	
	From Existing Driveway Facing Right	From Existing Driveway Facing Left
25	255	100
30	325	150
35	425	150
40	525	150
45	630	200
50+	750	250

Table 3.4 Notes:

- Table 3.4 applies to Arterials and Collectors Streets.
- Local Street driveways are approved at the discretion of the City.
- Spacing between driveways is measured centerline to centerline.
- This standard may be reduced by the City in the case of a single proposed driveway serving a parcel, where no other point of reasonable access is feasible. No reduction is allowed if two or more driveways are proposed to serve the parcel.
- If the proposed driveway is a boulevard, or two access points acting as one-way pair, existing driveway spacing to the right applies to inbound movements, and existing driveway spacing to the left applies to outbound movements.

3. **Spacing from intersections:** Minimum spacing requirements between a proposed commercial driveway and an intersection either adjacent to or on the opposite side of the street in no instance shall be less than the distances listed in Table 3.5. The following measurements are from the near edge of the proposed driveway, measured at the throat perpendicular to the street, to the near lane edge of the intersecting street or pavement edge for uncurbed sections.

Table 3.5: MINIMUM COMMERCIAL DRIVEWAY SPACING FROM STREET INTERSECTIONS

Location of Driveway	Minimum Spacing for a Full Movement Driveway	Minimum Spacing for a Channelized Driveway Restricting Left Turns
Along Arterial or from Expressway Ramps	300 feet	300 feet
Along Arterial intersecting another Arterial	250 feet	125 feet
Along Arterial intersecting a Collector or Local Street	200 feet	125 feet
Along a Collector	125 feet	75 feet
Along a Local Street or Private Road	75 feet	50 feet

Arterials and Collectors are as classified in the City of Midland Master Plan.

For sites with insufficient street frontage to meet the above criterion, construction of the driveway along a side street, a shared driveway with an adjacent property, construction of a driveway along the property line farthest from the intersection or require a service/frontage road as described in Sections 3.10(E) and 3.10(F) is encouraged.

E. Standards for Shared Driveways and Service/Frontage Roads

The use of service roads, in conjunction with driveway spacing, is intended to preserve traffic flow along major thoroughfares and minimize traffic conflicts, while retaining reasonable access to the property. Where noted above, or where reducing the number of access points may have a beneficial impact on traffic operations and safety while preserving the property owner's right to reasonable access, access from a side street, a shared driveway or service road connecting two or more properties or uses is encouraged. In particular, service drives, frontage roads or at least a connection between uses is encouraged in the following cases:

1. Where the driveway spacing standards of this section cannot be met.

2. When the driveway could potentially interfere with traffic operations at an existing or potential traffic signal location.

3. The site is along an Arterial.

4. The property frontage has limited sight distance.

5. The fire department recommends a second means of emergency access.

F. Design Standards for Service Drives

Service roads as an alternate to numerous individual driveways serving a series of uses or lots shall be designed according to the following additional standards:

1. **Location**
   Service roads shall generally be parallel or perpendicular to the front property line and may be located either in front of, adjacent to, or behind, principal buildings and may be placed in required yards. In considering the most appropriate alignment for a service road, the setbacks of existing and/or proposed buildings and anticipated traffic flow for the site shall be considered.

2. **Access Easement**
   The service road shall be within an access easement permitting traffic circulation between properties. This easement shall be at least forty (40) feet wide. This easement shall be recorded with the Midland or Bay County Register of Deeds.

3. **Construction and Materials**
   Service roads shall have a base, pavement in accord with city standards and when required curb and gutter in accordance with City standards.

4. **Parking**
   The service road is intended to be used exclusively for circulation, not as a parking maneuvering aisle. It may be required that "no parking" signs be posted along the service road. In reviewing the site plan, temporary parking may be permitted in the easement area where a continuous service road is not yet available, provided that the layout allows removal of the parking in the future to allow extension of the service road. Temporary parking spaces permitted within the service drive shall be in excess of the minimum required under Article 5.00, Off-Street Parking and Loading Requirements.

5. **Access**
   The location of all accesses to the service/frontage road shall be approved based on the driveway spacing standards of this Article.

6. **Temporary Access**
   Temporary access points may be approved where a continuous service road is not yet available and a performance bond or escrow is created to assure elimination of temporary access when the service road is continued.

7. **Elevation**
   The site plan shall indicate the proposed elevation of the service/frontage road at the property line and the Engineering Department shall maintain a record of all service road elevations so that their grades can be coordinated.

8. **Landscaping**
   The greenbelt between a service road and the public street right-of-way shall be landscaped as specified in Article 6.00, Landscaping and Screening.

9. **Maintenance**
   Each property owner shall be responsible for maintaining the service/frontage road. A maintenance agreement, approved by the City Attorney, shall be required.

G. Commercial Driveway Design

Commercial driveways shall be designed according to the standards of the City of Midland and in accordance with the following:

1. **Throat Width & Length**

   a. Throat Width: The typical commercial driveway design shall include one ingress lane and one egress lane with a combined maximum throat width of thirty (30) feet, measured from face to face of curb.

   b. Throat Length:

      i. There shall be a minimum of twenty (20) feet of throat length for entering and exiting vehicles at the intersection of a driveway and pavement of the public road or service drive as measured from the pavement edge.

      ii. For a driveway serving between one hundred (100) and four hundred (400) vehicles in the peak hour (two way traffic volumes) the driveway shall provide at least sixty (60) feet of throat length.

      iii. For a driveway serving over four-hundred (400) vehicles per peak hour (two way traffic volume) and for any driveway controlled by a traffic signal, adequate throat length shall be determined by a traffic impact study.

      iv. In areas where significant pedestrian/bicycle travel is expected, the ingress and egress lanes should be separated by a four to ten foot (4’ to 10’) wide median with pedestrian refuge area.

2. **Additional Egress Lanes Required**
   For high traffic generators, or for commercial driveways along roadways experiencing or expected to experience congestion, two (2) egress lanes may be required (one a separate left turn lane). The total width of such a driveway shall be between thirty-seven and thirty-nine feet (37’ – 39’), with one fifteen foot (15’) wide ingress lane and two (2) eleven to twelve foot (11’ – 12’) wide egress lanes.

3. **Boulevard Entrances.**
   Where a boulevard entrance is desired, a fully curbed island shall separate the ingress and egress lanes. The radii forming the edges on this island shall be designed to accommodate the largest vehicle that will normally use the driveway. The minimum area of the island shall be one hundred eighty (180) square feet. Landscaping may be required on the section outside the public right-of-way. Such landscaping shall be tolerant of roadway conditions. Direct alignment of boulevard entrances is discouraged.

H. Modification of Standards for Commercial Driveways for Special Situations

During site plan review dealing with commercial driveways, the Planning Commission shall have the authority to modify the standards of this Article upon consideration of the following:

1. The standards of this section would prevent reasonable access to the site.

2. Access via a shared driveway or service/frontage road is not possible due to the presence of existing buildings or topographic conditions.

3. Roadway improvements (such as the addition of a traffic signal, a center turn lane or bypass lane) will be made to improve overall traffic operations prior to project completion, or occupancy of the building.

4. The use involves the redesign of an existing development or a new use that will generate less traffic than the previous use or will move traffic more efficiently.

5. The proposed location and design is supported by a Road Authority other than the City of Midland as an acceptable design under the conditions. The Planning Commission may also request the applicant provide a traffic impact study in accordance with Section 3.17 to support the requested access design.

6. The modification shall be of the minimum amount necessary, but in no case shall spacing of a full-access driveway from another driveway be less than sixty (60) feet, measured centerline to centerline.

I. Traffic Impact Studies

Traffic impact studies shall be required based on thresholds and related recommendations established per the "Evaluating Traffic Impact Studies –A Recommended Practice for Michigan Communities" (ETIS), as amended and related Institution of Transportation Engineers (ITE) specifications as amended. Studies provided in the ETIS are dependent on trip generation thresholds primarily described in Tables 1 and 3 of the ETIS. Details regarding content of any required traffic study are as provided in the ETIS. The types of required studies shown in Table 3 of the ETIS are indicated below.

- Rezoning/Use Traffic Study – Standard study related to trip generation rates below 50 vehicles in one direction in the peak traffic hour or below 500 daily vehicle trips.
- Traffic Impact Assessment (TIA) – complete study that is significantly more detailed than the standard study, with related trip generation rates from 50-99 vehicles in one direction in the peak traffic hour or 500-749 daily vehicle trips.
- Traffic Impact Statement (TIS) – More detailed study than the TIA. This study is related to trip generation rates with 100+ vehicles in one direction in the peak traffic hour or 750+ daily vehicle trips.
- Regional Traffic Analysis - More detailed study than the TIS. This study is related to trip generation rates with 500+ vehicles in one direction in the peak traffic hour.

Any required traffic studies may require review by a City designated professional traffic consultant or engineer.

Section 3.11 -- GRADING REGULATIONS

A. Intent and Scope of Requirements

In addition to the requirements in Chapter 29 of the Midland Code of Ordinances, compliance with the grading regulations set forth herein shall be required as follows:

1. Intent

Grading regulations are established to control the excavation and filling of land, to assure adequate drainage away from structures and to a natural or established drainage course, and to assure protection of trees on sites where grading is to take place and to protect adjacent properties from receiving excess storm water runoff. The regulations set forth herein also establish procedures and requirements for grading permits, inspection of finished grading operations, and penalties for violation of the grading regulations.

2. Scope of Application

A Grading Plan approved by the Building Official and the City Engineer shall be required in all instances where grading, excavating, filling, stockpiling, or other alterations to the land are proposed. "Filling" includes the dumping of soil, sand, clay, gravel, rock, garbage, rubbish or other wastes or byproducts on a site. The regulations in this section do not apply to normal soil removal for basement or foundation work when a building permit has been duly issued by the Building Official.

B. Grading Plan

1. Grading Plan

The fee holder owner of the property concerned shall first submit a Topographic Plan for review and approval by the Building Official and City Engineer.

2. Grading Plan Standards

At a minimum, topographic plans shall be drawn at a scale of not less than one (1) inch equals fifty (50) feet, and shall show existing and proposed grades and topographic features. The City Engineer may require other data.

C. Grading Standards

1. Slope Away From Buildings

All buildings and structures shall be constructed at an elevation that provides a sloping grade away from the building or structure, thereby causing surface water to drain away from the walls of the building to a natural or established drainage course without negatively impacting neighboring properties. The finished grade around a building within one hundred (100) feet of a street curb line shall not be less than one quarter inch per foot above the curb height of the street on which the building faces, unless this slope cannot be reasonably achieved on a parcel of property, in which case the Building Official or City Engineer may establish the appropriate grade.

2. Grade on Vacant Lot Adjacent to Existing Building

When a new building is constructed on a vacant lot between two (2) buildings or adjacent to an existing building, the existing established grade shall be used to determine the grade around the new structure if the provisions of Section 3.11, item C.1, are met. If the existing slope does not meet the provisions, the Building Official or City Engineer will establish the appropriate grade.

3. Prohibited Runoff

New grades shall not be established that would permit an increase in the runoff of surface water onto adjacent properties or public roads, except through established drainage courses, or cause surface runoff to accumulate on the surface of an adjacent property.

4. Excavations of Holes

The excavation, maintenance or continued existence of unprotected, unbarricaded, open or dangerous holes, pits, or wells that constitute or are reasonably likely to constitute a danger or menace to the public health, safety, and welfare is prohibited. However, this restriction shall not apply to excavations for which a permit has been acquired from the City under this chapter or the building code of the City, provided such excavations are properly protected with fencing, guard rails, and warning signs, as may be approved by the Building Official. This section also shall not apply to lakes, streams, ditches, reservoirs, or other bodies of water under the jurisdiction of the State of Michigan, Midland County, Bay County, the City of Midland, or other governmental agency.

5. Soil Erosion and Sedimentation

If required by Public Act 451 of 1994, as amended, a Soil Erosion and Sedimentation Control Permit shall be obtained. Proposed grading shall comply with other requirements of the County Drain Commission.

D. Review, Inspection, and Approval Procedures

A Certificate of Occupancy may be issued by the City when the requirements set forth herein and in other applicable ordinances have been complied with. The filing of a surety bond to the City, issued by a surety company authorized to do business in Michigan, may be required with the application for a Grading Certificate in appropriate cases. The amount of the surety bond will determined by the City Engineer and should be sufficient to rehabilitate the property upon default of the operator or such other reasonable expenses.

Section 3.12 -- LIGHTING

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

A. General Requirements

1. Only non-glare lighting shall be permitted.

1. Unless otherwise exempted by the provisions of this Ordinance, all outdoor lighting shall be shielded, so as to focus the light downward onto the site and away from adjoining properties. The light source shall not be directly visible from adjoining properties.

3. Lighting shall be shielded so that it does not cause glare or interfere with the vision of motorists (see diagram on page 3-21).

4. Light trespass from a property shall not exceed 1.0 foot-candles at the property line, measured five feet from the ground.

5. To prevent sky glow, lighting shall be shielded or designed to prevent light to project above a ninety (90) degree horizontal plane (see illustration on page 3-21).

6. Uplighting of buildings for aesthetic purposes shall be confined to the target surface.

7. Gas station canopies and similar structures shall have lighting fixtures that are completely shielded along the perimeter of the canopy. The maximum light level allowed under a canopy shall be twenty (20) foot-candles, measured five (5) feet above the surface.

B. Intensity

In parking areas, the light intensity shall average a minimum of 1.0 foot-candle, measured five (5) feet above the surface. In pedestrian areas, the light intensity shall average a minimum of 2.0 foot-candles, measured five (5) feet above surface.

C. Permitted Lighting Sources and Shielding Requirements

Outdoor lighting shall comply with the following use and shielding requirements:

Table 3.6: PERMITTED LIGHTING TYPES AND REQUIRED SHIELDING

Lamp Type	Permitted Use	Shielding Required
High Pressure Sodium, Metal Halide (filtered and in enclosed luminaries only)[1]	Street lighting; parking and security areas; sports parks, tennis courts; residential / agricultural security lighting, signage, display and sports lighting	Full
Fluorescent (warm white and natural lamps preferred)	Residential lighting, internal sign lighting (see Article 8.00)	Full
Wall Pack	Parking and security areas	Full
Incandescent greater than 100 watt	Sensor activated residential lighting	Full
Incandescent less than 100 watt	Porch lighting and other low-wattage residential uses	None
LED	Any	Full
Any light source of 50 watts or less, are not required to provide shielding unless otherwise regulated.	Any	None
Glass tubes filled with neon, argon, and krypton	Display/advertising	None

[1] Where color rendering is a critical concern, Metal Halide lights should be used.

D. Height

Except as noted below, lighting fixtures shall not exceed a height of thirty (30) feet measured from the ground level to the centerline of the light source. Fixtures should provide an overlapping pattern of light at a height of approximately seven (7) feet above ground level.

These height standards may be exceeded in commercial and industrial districts, upon written approval by the Director of Planning and Community Development, based on consideration of the following: the position and height of buildings, other structures, and trees on the site; the potential off-site impact of the lighting; the character of the proposed use; and, the character of surrounding land use. In no case shall the lighting exceed the maximum building height in the district in which it is located.

E. Sign Lighting

Signs shall be illuminated in accordance with the regulations set forth in Article 8.00.

F. Prohibited Lighting

1. **Outdoor Building and Landscaping Lighting**
   Unshielded illumination of the exterior of a building or landscaping is prohibited except with incandescent fixtures having lamps of 100 watts or less.

2. **Laser Source Light**
   The use of laser source light or any similar high intensity light for outdoor advertising when projected above the horizontal is prohibited.

3. **Searchlights**
   The operation of searchlights for advertising purposes is prohibited between 10:00 p.m. and sunrise the following morning.

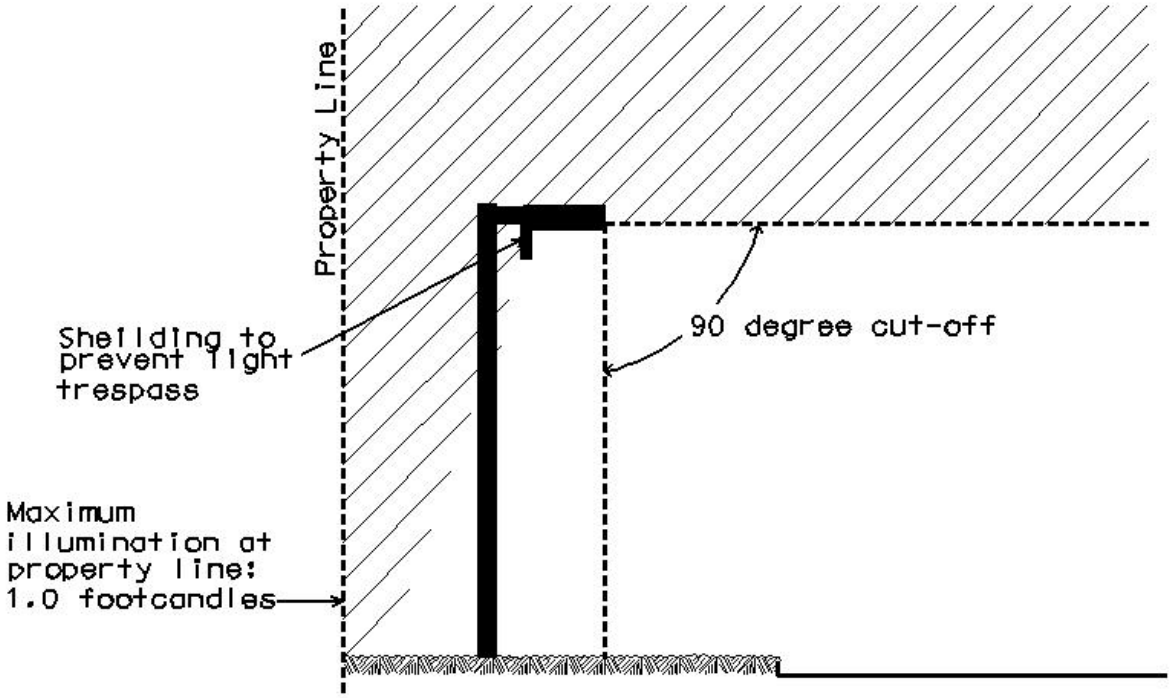
G. Exceptions

1. **Fossil Fuel Light**
   Fossil fuel light produced directly or indirectly from the combustion of natural gas or other utility-type fossil fuels (e.g., gas lamps) is exempt from the provisions of this Section.

2. **Temporary Carnival and Civic Uses**
   Lighting for permitted temporary circus, fair, carnival, or civic uses is exempt from the provisions of this Section.

3. **Construction and Emergency Lighting**
   Lighting necessary for construction or emergencies is exempt from the provisions of this article provided that said lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency.

4. **Special Conditions**
   Additional exception may be permitted, subject to site plan review, and upon finding that unique or special conditions on the site warrant the exception.



Lighting Fixture Orientation and Shielding

H. Site Plan Requirements

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

Section 3.13 -- EXCEPTIONS

A. Essential Services

Essential services, as defined in Section 2.02, shall be permitted as authorized and regulated by franchise agreements and by state, federal, and local ordinances and laws. Essential services will be permitted in all use districts. It is the intention of this Ordinance to exempt such uses from those regulations governing lot area, building or structure height, building or structure placement, and use of land in the City that would not be practical or feasible to comply with.

The intention of the City is to achieve efficient use of the land and alleviate adverse impact on nearby uses or lands. Essential services buildings and uses should be reasonably necessary for the public convenience, and should be designed, erected and landscaped to conform harmoniously with the general architecture and character of such district and shall not be permitted in clear vision areas.

B. Exceptions to Height Standards

The height limitations of this Ordinance shall not apply to roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building; fire walls, parapet walls not exceeding three (3) feet in height; sky lighting, solar collectors, towers, steeples, cupolas, belfries, domes, ornamental towers, stage lofts and screens; flagpoles, chimneys, smokestacks, individual domestic radio and television aerials, wireless masts and satellite dishes; water tanks or similar structures, fire and hose towers. Such structures may be erected without regard to height limitations imposed in the district in which the same is located, to a maximum height of one hundred (100) feet from the building grade. This maximum height limitation does not apply in the Industrial “A” and “B” Districts.

Section 3.14 -- PERFORMANCE GUARANTEE

A. Intent and Scope of Requirements

To insure compliance with the provisions of this Ordinance and any conditions imposed there under, the City Council may require that a performance guarantee be deposited with the City to insure faithful completion of improvements, in accordance with Michigan Public Act 100 of 2006 as amended.

Improvements means those features and/or actions considered necessary to protect natural resources or the health, safety, and welfare of the city residents and/or the future users or inhabitants of the proposed project. Improvements for which a performance guarantee may be required include, but are not limited to, roadways, parking, lighting, utilities, sidewalks, screening and drainage.

B. General Requirements

The performance guarantee shall meet the following requirements:

1. The performance guarantee shall be in the form of an irrevocable bank letter of credit or cash escrow. If the applicant posts a letter of credit, the credit shall require only that the City present the credit with a draft and an affidavit signed by the City Manager attesting to the City's right to draw funds under the credit. If the applicant posts a cash escrow, the

escrow instructions shall provide that the escrow agent shall have a legal duty to deliver the funds to the City whenever the City Manager presents an affidavit to the agent attesting to the City's right to receive funds whether or not the applicant protests that right.

2. The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity or project. If appropriate, based on the type of performance guarantee submitted, the City shall deposit the funds in an interest-bearing account in a financial institution with which the City regularly conducts business.

3. The amount of the performance guarantee shall be sufficient to cover the estimated cost of the improvements for which the performance guarantee is required. The applicant shall provide an itemized schedule of estimated costs to complete all such improvements. The Building Official shall determine the exact amount of the performance guarantee.

4. The entire performance guarantee, plus interest accrued, if any, shall be returned to the applicant following inspection by the Building Official and a determination that the required improvements have been completed satisfactorily. The performance guarantee may be released to the applicant in proportion to the work completed on various elements, provided that a minimum of ten percent (10%) shall be held back on each element until satisfactory completion of the entire project.

5. An amount not less than ten percent (10%) of the total performance guarantee may be retained for a period of at least one (1) year after installation of landscape materials to insure proper maintenance and replacement, if necessary. This amount shall be released to the applicant upon certification by the Building Official that all landscape materials are being maintained in good condition.

C. Unsatisfactory Completion of Improvements

Whenever required improvements are not installed or maintained within the time stipulated or in accordance with the standards set forth in this Ordinance, the City may complete the necessary improvements itself or by contract to an independent developer, and assess all costs of completing said improvements against the performance guarantee. If the performance guarantee is not sufficient to cover the cost of required improvements, the City may complete the required improvements and then place a lien on the property to recover the full cost of such improvements. Prior to completing said improvements, the City shall notify the owner, site plan review applicant, or other firm or individual responsible for completion of the required improvements.

Section 3.15 -- WASTE DUMPSTERS, COMPACTORS, AND ENCLOSURES

Adequate refuse disposal facilities shall be required for all uses, except single-family and two-family residences.

A. Standards for Siting and Screening of Trash Dumpsters or Compactors

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

1. Location

Dumpsters or compactors shall not be located in the required front yard setback. Any such dumpster shall have adequate vehicular access, shall not encroach on a required parking area, and shall not conflict with entrances to principal buildings. Dumpsters shall be located to minimize their visibility from adjacent streets and adjacent properties. Dumpsters shall be setback a minimum of ten (10) feet from any side or rear property line, and shall be

located as far as practicable from any adjoining residential district.

2. Concrete Pad

Dumpsters or compactors shall be placed on a concrete pad. The concrete pad should extend a minimum of three (3) feet in front of a dumpster enclosure.

3. Screening

Dumpsters and compactors shall be screened from view from adjoining property and public streets and thoroughfares. Any dumpsters or compactor shall be screened on three sides with a permanent building, decorative masonry wall, or wood fencing, at least one (1) foot above the height of the enclosed dumpster. The height of the screening shall not exceed eight (8) feet. The screening material shall be compatible with the exterior of the principal building. The fourth side of the screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other three sides.

4. Waiver of Screening Requirements

The screening requirements may be waived upon finding that the unscreened dumpster or compactor will not be visible from adjoining property or from any public road, or upon finding that if the dumpster or compactor is visible from the adjoining property the impact will not be detrimental because of the size or location of the proposed dumpster or compactor or because of the nature of the adjoining use.

If it is determined those circumstances have changed and screening is needed, the Building Official may order screening around the dumpster or compactor at a later date. This section is not intended to require the screening of any dumpster or compactor used on a temporary basis during construction, remodeling or demolition of a building.

5. Bollards

Bollards (concrete filled metal posts) or similar protective devices shall be installed at the opening of the enclosure to prevent damage to the screening wall or fence.

6. Site Plan Requirements

The location and method of screening of dumpsters shall be shown on all site plans.

Section 3.16 -- COMMUNICATION FACILITIES

A. Reception and Broadcast Antennae Facilities

In all zoning districts the installation of reception and broadcast antenna facilities shall be permitted as an accessory use, subject to the provisions in this section. This section does not apply to wireless communication facilities (See Section B).

1. Purpose

   The purposes of this section are as follows:

   a. To provide reasonable regulations for the placement of reception antenna facilities.
   b. To promote safety and prevent danger to persons and property resulting from accidents involving antenna facilities that may become dislodged and fall due to wind load, snow load or other forces.
   c. To require screening of ground-mounted facilities and to minimize the visibility of roof or structure mounted facilities in the interest of maintaining the high architectural and aesthetic qualities of the City and in the interest of maintaining and preserving property values.

2. Ground-Mounted or Tower-Mounted Antennas
   Ground-mounted or tower-mounted antennas shall be subject to the following conditions:
   a. The maximum height of any part of a ground-mounted or tower-mounted antenna shall not exceed twenty-eight (28) feet or the minimum height necessary to achieve adequate reception.
   b. Ground-mounted or tower-mounted antennas in a residential zoning district shall not be located in the front yard.

3. Roof-Mounted Antennas
   Antennas mounted on a roof of a building shall be subject to the following regulations:
   a. Antennas mounted on a building shall not exceed an overall height of twenty-eight (28) feet.
   b. Roof-mounted antennas shall be permitted on an accessory structure located in a yard between the principal building and any property line.

4. General Requirements
   All antennas shall comply with the following regulations:
   a. Antennas shall not be used to display a sign or message board.
   b. Permits, if required by the adopted building or electrical code, shall be obtained prior to construction of an antenna. The applicant shall submit an administrative site plan for administrative review indicating the exact location where the antenna will be located, plus applicable electrical and structural plans and documentation.
   c. All wiring to a freestanding antenna shall be installed underground.
   d. In the event that approval is requested for an antenna that is higher than the minimum standards specified in this section, or if other variations from the required standards are proposed, documentation shall be provided demonstrating the need for such variations in order to achieve adequate reception. The following criteria shall be used to evaluate a request for a variation:

      i. No alternate sites would provide adequate coverage while meeting the minimum requirements;

      ii. The variation is needed due to existing physical features that are not self-created such as topography, vegetation or existing structures;

      iii. The variation is the minimum needed to achieve adequate coverage; and

      iv. Appropriate design measures have been taken to minimize the affect of the variation, such as a “stealth design”, landscaping, etc.

   e. Notwithstanding the setback requirements specified previously in this section, antennas with a wind resistance surface of seven (7) square feet or less and all open element and monopole antennas shall have a setback from any residential-zoned district or existing or proposed right-of-way or other publicly traveled road, whichever is greater: the total height of the structure and attachments thereto or the required setbacks for principal buildings specified in the Schedule of Regulations for the zoning district.

      Where antennas with a wind resistance surface of seven (7) square feet or less and all open element and monopole antennas abut a parcel of land zoned for a use other than residential, the structure shall comply with the required setbacks for principal buildings specified in the Schedule of Regulations for the zoning district in which the facility is located.

      All antennas with a wind resistance over seven (7) square feet shall be located in the rear yard only, and shall be subject to the setback and height standards for the district in which they are located. Any such antenna shall be located to obscure its view from adjacent properties and roads, to the maximum extent possible.

B. Wireless Communication Facilities

1. Purpose

It is the general purpose and intent of the City of Midland to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. However, it is the further purpose and intent of the City to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, an attempt has been made to balance these potentially competing interests.

Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is the further purpose and intent of this Section to:

a. Facilitate adequate and efficient provision of sites for wireless communication facilities.
b. Identify districts considered best for the establishment of wireless communication facilities, subject to applicable standards and conditions.
c. Recognize that operation of a wireless communication system may require the establishment of facilities in locations outside of the districts considered best for such facilities. In such cases, it has been determined that it is likely that there will be greater adverse impact. Consequently, more stringent standards and conditions should apply to the review, approval and use of such facilities.
d. Ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.
e. Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
f. Minimize adverse visual impact of transmission towers and telecommunications facilities through careful design, siting, landscaping and innovative camouflaging techniques.
g. Promote and require, where feasible, shared use/co-location of transmission towers and antenna support structures as the primary option rather than construction of additional single-use transmission towers.
h. Promote public health and welfare and prevent potential damage to property by ensuring transmission towers and antenna support structures are soundly and carefully designed, constructed, modified, maintained and removed when no longer used or determined to be structurally unsound.
i. Minimize the negative visual impact of wireless communication facilities on neighborhoods, community landmarks, historic sites and buildings, natural beauty areas and public rights-of-way. This contemplates the establishment of as few structures as reasonably feasible, and the use of structures which are designed for compatibility, including the use of existing structures and the avoidance of lattice structures that are unnecessary, taking into consideration the purposes and intent of this section.

2. Definitions

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

a. **Administrative Site Plan**. A site plan submitted pursuant to Article 27 for co-locations and small scale facilities specified in the following Section 3. Because of their minimal impacts, these projects or changes are permitted to provide less detailed information than a full scale site plan. The level of information is intended to be proportionate to the extent of the change and to ensure adequate review for compliance with applicable standards.

b. **Administrative Review**. Select smaller scale projects and expansions or changes in use to existing sites do not require review by the Planning Commission; but shall undergo an administrative site plan review for approval by city staff.

c. **Antennas.** An electrical conductor or group of electrical conductors that transmit or receive radio waves, excluding amateur radio antennas.

d. **Attachment**. An antenna or other piece of related equipment affixed to a transmission tower, building, light or utility pole, or water tower.

e. **Co-location**. Placement of an antenna on an existing transmission tower, building, light or utility pole or water tower where the antenna and all supports are located on the existing structure.

f. **Private or Public Utility Cabinets**. Ground mounted structures that are used to house telecommunication equipment.

g. **Site Plan.** See definition in Section 2.02.

h. **Stealth.** Any transmission tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and transmission towers designed to look other than like a transmission tower such as light poles, power poles and trees.

i. **Support Structure**. Structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, guyed towers, and stealth structures which appear to be something other than a mere support structure.

j. **Telecommunications Facilities.** Any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a transmission tower or antenna support structure. However, the term telecommunications facilities shall not include any satellite earth station antenna one meter or less in diameter, regardless of zoning category.

k. **Transmission Tower**. The monopole or lattice framework designed to support transmitting and receiving antennas. For the purposes of this section, amateur radio transmission facilities and facilities used exclusively for the transmission of television and radio signals are not "transmission towers."

l. **Wireless Internet Facilities**. Wireless internet facilities, including integrated units that have a radio and antenna in one unit and point to point and point to multi-point antennae, are considered to be a telecommunication facility.

3. Authorization to Construct or Install Wireless Communications Facilities

Table 3.6: Subject to the standards and conditions set forth herein, wireless communication facilities shall be permitted uses in the following circumstances and in the following districts:

Type/Location of Wireless Communication Facility	Districts Permitted	Approval Procedure
Attached to existing structures:		
Attached to an existing conforming structure that will not be materially altered or changed in appearance	Non-residential districts	Administrative Site Plan Review
Co-location upon an existing transmission tower previously approved for co-locations and no additional height is proposed	All districts	Administrative Site Plan Review
Located on a municipally owned site:		

Attached to an existing structure or monopole up to 150 feet in height	All districts	Administrative Site Plan Review
New monopole up to 150 feet in height	Non-residential districts	Site Plan Review
New monopole up to 150 feet in height	Residential districts	Conditional Use, Site Plan Review
Located on a site owned by another governmental entity, religious institution or public school:		
New monopole up to 150 feet in height	All non-residential districts	Site Plan Review
New monopole up to 150 feet in height	Residential districts	Conditional Use and Site Plan Review
New facility not addressed above:		
Monopole or other support structure up to 150 feet in height	IA, IB, LCMR, RC	Site Plan Review
Monopole support structure up to 150 feet in height	Residential, Community, CC, OS, NC, D, C	Conditional Use and Site Plan Review
Wireless internet facilities 3 feet or less in dimension.	All districts	Administrative Site Plan Review

4. Standards and Conditions

a. No telecommunication facility or transmission tower, as defined in this Section, may be constructed, modified to increase its height, installed or otherwise located within the City except as provided in this Section.

i. Public Health and Safety: Facilities and/or support structures shall not be detrimental to the public health, safety and welfare.

ii. Harmony with Surroundings: Facilities shall be located and designed to be harmonious with the surrounding areas.

iii. Compliance with Federal, State and Local Standards: Wireless communication facilities shall comply with applicable federal and state standards, including requirements promulgated by the Federal Aviation Administration (FAA), Federal Communication Commission (FCC), and Michigan Aeronautics Commission. Wireless communication support structures shall comply with all applicable building codes.

No wireless communication facility shall be installed at a location where special painting or lighting will be required by the FAA regulations unless the applicant has demonstrated to the City that the proposed location is the only technically feasible location for the provision of personal wireless services as required by the FCC.

iv. Conflict with Tri-City Regulations: In the event of any conflict between this Section and the Tri-City Zoning Ordinance, the Tri-City regulations shall take precedence.

v. Maximum Height: Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which may result in lower heights. The maximum height of a new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to collocate on

the structure), but shall not exceed one hundred fifty (150) feet. However, higher towers may be permitted, subject to the granting of a waiver provided for by sub-section 9, if necessary to achieve co-location or the minimum height for attaining an adequate signal.

The buildings, cabinets, and other accessory structures shall not exceed the maximum height for accessory structures in the zoning district in which the facility is located.

vi. Minimum Setbacks: The setback of a new or modified support structure shall be no less than the total height of the structure and attachments thereto.

New support structures are to be setback at least 300 feet from a property zoned or used for residential purposes. New support structures that are proposed to be setback less than 300 feet from a property zoned or used for residential purposes shall be required to obtain Conditional Use approval. In addition to other considerations, the applicant must demonstrate, through written documentation provided by an engineer, that a location 300 feet or more from a property zoned or used for residential purposes is not feasible.

Buildings and facilities accessory to the wireless communication facility (such as equipment shelters, guy wire anchors) shall comply with the required setbacks for principal buildings specified in the Schedule of Regulations for the zoning district in which the facility is located.

vii. Access: Unobstructed permanent access to the support structure shall be provided for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. The permitted type of surfacing, dimensions and location of such access route shall be based on evaluation of the location of adjacent roads, layout of buildings and equipment on the site, utilities needed to service the facility, proximity to residential districts, disturbance to the natural landscape, and the type of vehicles and equipment that will visit the site.

The access road must be properly designed and constructed to ensure adequate access by emergency vehicles.

viii. Division of Property: The division of property for the purpose of locating a wireless communication facility shall be permitted only if all zoning requirements, including lot size and lot width requirements are met.

~~ix.~~ Exterior Finish. If a facility is conditioned to require paint, it shall initially be painted with a flat (i.e., non-reflective) paint color, and thereafter repainted as necessary with a flat paint color, unless it is determined that flat paint color would lead to more adverse impact than would another type of paint color.

x. Stealth Design: Wireless communication facilities should be sited where they blend with the existing and projected development for any given vicinity. Where appropriate, antennas should be located on existing structures such as a church steeple, or a clock tower, eliminating the need for additional new support towers. Facilities should appear integrated, and architecturally compatible with the existing structure to promote visual harmony.

Where feasible, a self-supporting transmission tower should be designed to closely resemble a commonplace object that blends with its surroundings. Some examples of stealth structures are tree poles in wooded areas or a flag pole.

Wireless communication facilities located on highly visible sites will only be allowed when appropriately camouflaged. All stealth or faux structures shall emulate architectural or landscape features typical of the surrounding area in terms of architectural style, height, bulk, mass, material, and color.

xi. Signs and Graphics. No signs, striping, graphics or other devices that draw attention are permitted on the transmission tower or ancillary facilities except for warning and safety signage with a surface area of no more than three (3) square feet. Such signage shall be affixed to a fence or ancillary facility and the number of signs is limited to no more than two (2).

xii. Fencing: Wireless communication facilities shall be enclosed by a fence having a maximum height of allowed by the district in which it is located. Barbed wire is not permitted except in the IA and IB districts.

xiii. Lighting: Any exterior lighting, except as required for FAA regulations for airport safety, shall be manually operated and used only during night maintenance checks or in emergencies. The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled in accordance with Section 3.12 of this Ordinance.

xiv. Structural Integrity: Wireless communication facilities and support structures shall be constructed and maintained in structurally sound condition, using the best available technology, to minimize any threat to public safety. The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.

xv. Maintenance: A plan for the long term, continuous maintenance of the facility shall be submitted. The plan shall identify who will be responsible for maintenance and shall include a method of notifying the City if maintenance responsibilities change.

b. A telecommunication facility or transmission tower, which requires a conditional use permit, shall be processed in accordance with the conditional use permit procedures of this ordinance and in accordance with established administrative policies. The conditional use criteria contained in this ordinance and the application requirements and standards of this Section of the Ordnance shall govern approval or denial of the conditional use permit application. In the event of a conflict in criteria, the criteria contained in this Section shall govern. No building permit shall be issued prior to completion of this conditional use permit process, including any appeals.

5. Administrative site plan requirements

a. For situations requiring administrative site plan review, the following information shall be provided:

1. All plans shall adhere to the provisions of Article 27.

2. Signed certification by a professional engineer licensed by the State of Michigan with regard to the manner in which the proposed structure will fall in the event of

damage, accident or injury, i.e., fall line, and that the setback area provided shall accommodate the structure should it fall or break and provide a reasonable buffer in the event the structure fails.

3. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.

4. Access (cross section of road access).

b. Standards and Conditions Applicable to Conditional Land Use Facilities: In addition to the standards and conditions described in the preceding subsection where approval is sought for a wireless communication facility that is considered Conditional Land Use, the applicant shall provide sufficient documentation and maps to demonstrate the need for the facility in the proposed location because of one or more of the following conditions:

i. Proximity to an interstate or major thoroughfare.

ii. Proximity to areas of population concentration.

iii. Proximity of other wireless communication facilities.

iv. Lack of ability to meet co-location requirements.

v. Concentration of commercial, industrial, and/or other business centers.

iv. Presence of signal interference due to masses of trees, topography, or other obstructions.

v. Other specific reason(s) creating the need for the facility in the specific location being proposed.

6. **Co-location of Additional Antennas on Existing Transmission Towers**

a. Co-location Requirements: It is the policy of the City to minimize the overall number of newly established locations for wireless communication facilities and wireless communication support structures within the city and to encourage the use of existing structures for attached wireless communication facilities. If a provider fails or refuses to permit co-location on a facility owned or controlled by it, where co-location is feasible, the result will be that a new and unnecessary additional structure will be required, in contradiction with this policy. Co-location shall be required unless an applicant demonstrates that co-location is not feasible.

Co-location shall be deemed feasible for the purpose of this Section where all of the following are met:

1. The wireless communication provider or property owner where co-location is proposed will accept market rent or other market compensation for co-location and the wireless communication provider seeking the facility will pay such rates.

2. The site on which co-location is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.

3. The co-location being considered is technically reasonable, e.g. the co-location will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennas and the like.

New transmission towers shall be designed to accommodate co-location of additional providers:

1. New transmission towers of a height of one hundred (100) feet or more shall be designed to accommodate co-location of a minimum of two additional providers either outright or through future modification to the transmission tower.

2. New transmission towers of a height of at least sixty (60) feet and no more than one hundred (100) feet shall be designed to accommodate co-location of a minimum of one additional provider either outright or through future modification to the transmission tower.

7. **Requirements for Co-location**

a. A conditional land use permit for the construction and use of a *new* wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible co-location is not available for the coverage area and capacity needs.

b. All new and modified wireless communication facilities shall be designed and constructed to accommodate co-location.

c. Penalties for not permitting co-location.

The policy of the community is for co-location. If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure to accommodate a proposed and otherwise feasible co-location such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect. In addition, if a party refuses to allow co-location in accordance with the intent of the article and, this action results in construction of a new tower, the City may refuse to approve a new wireless communication support structure from the party for a period of up to five (5) years. Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five-year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

d. The applicant must demonstrate to the Planning Commission that a feasible co-location on an existing tower for the new wireless communication facility is not available for the coverage and capacity.

e. Antennae which are attached to an existing tower are encouraged to minimize the adverse visual impacts associated with the proliferation and clustering of towers. Co-location of antennas by more than one (1) carrier on existing towers shall take precedence over the construction of new towers, provided such co-location is accomplished in a manner consistent with the following:

1. A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower.

2. An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the co-location of an additional antenna.

3. A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved on-site when approved by the Planning Commission.

In addition to co-location on an existing transmission tower, an antenna may be collocated on existing buildings, light poles, utility poles and water towers. Said antenna(s) shall not exceed the building height allowed in the zone, or 18 feet above the structure, whichever is less. Said antenna(s) shall project no more than two (2) feet away from the existing structure, and the color of the antenna(s) shall blend in with the existing structure and surroundings.

8. **Application Requirements for Installation, Construction, or Increasing the Height of Transmission Tower**

In addition to standard building permit application material, an applicant seeking to construct, install or increase the height of a transmission tower shall submit the following information.

a. A description of the proposed transmission tower location, design and height.
b. The capacity of the transmission tower in terms of the number and type of antennas it is designed to accommodate.
c. Documentation from an engineer demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the Federal Communications Commission (FCC).
d. A signed agreement stating that the applicant will allow co-location with other users, provided all safety, structural and technological requirements are met. This agreement shall also state that any future owners or operators will allow co-location on the transmission tower.
e. A landscape plan drawn to scale showing proposed and existing landscaping, including type, spacing, size and irrigation methods.
f. Plans showing the connection to utilities, right-of-way required, ownership of utilities and easements required.
g. Documents demonstrating that necessary easements have been obtained.
h. Plans showing how vehicle access will be provided.
i. Documents demonstrating that the Federal Aviation Administration (FAA) has reviewed and approved the proposal. Alternatively, when a special use permit process is required, submit a statement documenting that notice of the proposal has been submitted to the FAA. The special use permit process may proceed and approval may be granted for the proposal as submitted, subject to FAA approval. If FAA approval requires any changes involving increased height or additional lighting other than as initially approved, then that initial special use permit approval shall be void. A new application will need to be submitted, reviewed and approved through an additional special use permit process. No building permit application shall be submitted without documents demonstrating FAA review and approval.
j. The names, addresses and telephone numbers of all owners of other transmission towers or usable antenna support structures within a one-half (1/2) mile radius of the proposed new transmission tower site, including City-owned property.
k. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful efforts for permission to install or collocate the applicant's telecommunications facilities on City-owned facilities or usable antenna support structures located within a one-half (1/2) mile radius of the proposed transmission tower site.
l. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful efforts to install or collocate the applicant's telecommunications facilities on transmission towers or usable antenna support structures owned by other persons located within a one-half (1/2) mile radius of the proposed transmission tower site.
m. Written, technical evidence from an engineer(s) that the proposed transmission tower or telecommunications facilities cannot be installed or collocated on another

person's transmission tower or usable antenna support structure located within a one-half (1/2) mile radius of the proposed transmission tower site because of the coverage requirements of the applicant's communications system.

n. Each application to allow construction of a transmission tower shall include a written statement from an engineer(s) that the construction and placement of the transmission tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications service enjoyed by adjacent residential and non-residential properties.

o. A visual study containing, at a minimum, a graphic simulation showing the appearance of the proposed transmission tower, antennas, and ancillary facilities from at least four (4) points within a three (3) mile radius. Such points shall be chosen by the applicant with review and approval by the City to ensure that various potential views are represented.

p. Documentation from an engineer that alternative sites within a radius of at least one-half (1/2) mile have been considered and have been determined to be technologically unfeasible or unavailable.

q. A current overall system plan for the City, showing facilities presently constructed or approved and future expansion plans.

r. A statement providing the reasons for the location, design and height of the proposed transmission tower or antennas.

9. **Waivers and Variances**

a. Any waiver to the requirements of this Section shall be granted only pursuant to the following provisions. The criteria for granting a waiver shall be limited to this sub-section, and shall not include criteria beyond this sub-section. A waiver shall not be issued to reduce the 300 foot setback from a residential use.

b. The Planning Commission may grant a waiver from the provisions of *Subsection 3 - Standards and Conditions* providing the applicant demonstrates that:

1. It is technologically impossible to locate the proposed transmission tower on available sites more than one-half (1/2) mile from a pre-existing transmission tower and still provide the approximate coverage the transmission tower is intended to provide;

2. The pre-existing transmission tower that is within one-half (1/2) miles of the proposed transmission tower cannot be modified to accommodate another provider; and

3. There are no available buildings, light or utility poles, or water towers on which antennas may be located and still provide the approximate coverage the transmission tower is intended to provide.

c. The Planning Commission may grant a waiver to the setback requirements of *Subsection 3 - Standards and Conditions* upon finding that stealth design, proposed landscaping, configuration of the site, or the presence of mature trees obviates the need for compliance.

d. The Planning Commission may <u>not</u> grant a waiver to the one hundred fifty (150) foot height limitation. An applicant proposing a transmission tower taller than one hundred fifty (150) feet must apply to the Zoning Board of Appeals (ZBA) for a variance. In addition to the variance criteria usually considered by the ZBA, the applicant must demonstrate, through written documentation provided by an engineer, that the proposed height is the minimum height needed to meet service needs AND to accommodate future co-locations.

10. Removal of Facilities

a. A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:

i. When the facility has not been used for one hundred eighty (180) days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.

ii. Six (6) months after new technology is available at reasonable cost, as determined by the City Council, which permits the operation of the communication system without the requirement of the support structure.

b. Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the facility shall immediately apply for any required demolition or removal permits and immediately proceed with and complete the demolition, removal, and site restoration.

c. If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the City may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected and/or enforced from or under the security posted at the time application was made for establishing the facility.

Section 3.17 – PRIVATE ROADS

Any private road built in the City of Midland must comply with the following standards:

1. **Sidewalks.** Sidewalks are required on both sides of all private streets. The Planning Commission may waive the sidewalk requirement along private streets if an alternate pedestrian circulation system that provides access to all parts of a development is provided. The alternate pedestrian circulation system may incorporate hard surfaced and non-hard surfaced paths, provided that hard surfaced pathways provide access to all parts of a development.

2. **Construction Standards.** All private roads and appurtenances thereto shall be constructed in accordance the specifications of the City of Midland or the appropriate road agency.

3. **Minimum Right-of-way.** The minimum right-of-way width of any private road shall be 40 feet.

4. **Minimum Paved Road Width**. The paved width of all private roads must be as follows.

Table 3.8: MINIMUM PAVED ROAD WIDTHS FOR PRIVATE ROADS

On-Street Parking	Paved Road Width (Measured from front of curb to front of curb)
Permitted on both sides of street	28 feet
Permitted on one side of street[1]	28 feet
No on-street parking permitted[1]	20 feet

[1] If on-street parking is prohibited on one or both sides of the street, “no parking” signs must be erected where parking is prohibited.

5. **Signs.** The proprietor shall be responsible for placement of street name signs at all private street intersections in accordance with the requirements of the City of Midland. The proprietor shall also be responsible for placement of pavement markings and regulatory street signs (such as no parking signs, stop or yield signs, speed limit signs, and warning signs) as requested or required by the appropriate road agency. All regulatory signs shall be in conformance with the Michigan Manual of Uniform Traffic Control Devices.

6. **Intersection Angles.** Private roads shall be laid out to intersect other private roads or public streets as nearly as possible to ninety (90) degrees; in no case shall the intersection be less than eighty (80) degrees.

7. **Private Road Names.** Private road names shall be sufficiently distinct from other street names in the area to avoid confusion, particularly for emergency service providers.

ARTICLE 4.00

NONCONFORMITIES

Section 4.01 -- INTENT

Nonconformities are uses, structures, buildings, or lots which do not conform to one or more provisions or requirements of this Ordinance or a subsequent amendment, but which were lawfully established prior to the time of adoption of this Ordinance or amendment. Such nonconformities are not compatible with the current or intended use of land in the district in which they are located. Therefore, it is the intent of this Ordinance to permit such nonconformities to continue under certain conditions, but to foster the elimination of nonconformities by discouraging their expansion, enlargement, or extension. Accordingly, the purpose of this section is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.

The Table 4.1 summarizes the nonconforming regulations contained in this Article:

Table 4.1: SUMMARY OF NONCONFORMING REGULATIONS

Issue	Requirement
Period of nonuse before nonconformity shall cease	Nonconforming use: 180 days Nonconforming Structure, access and land in combination: 12 months Nonconforming structure: 12 months
Replacement of existing nonconforming use with new conforming use	Nonconforming use shall cease
Change in Ownership	No effect on nonconformity
Expansion or extension of nonconforming use within a building	Permitted subject to conditions (see Section 4.05.B(2))
Expansion of nonconforming use beyond existing building	Not permitted
Enlargement of nonconforming structure	Not permitted
Maintenance or structural repairs	Maximum value of repairs: 50% of the assessed value during a period of twelve (12) consecutive months
Renovation or modernization	Maximum value of improvements: 50% of the assessed value during a period of twelve (12) consecutive months
Reconstruction or repair after catastrophe	Permitted if the appraised replacement cost does not exceed 50% of the assessed value of the structure.

Section 4.02 – EFFECTIVE DATE

Whenever this article refers to the "effective date," the reference shall be deemed to include the date any amendments to this Ordinance went into effect if the amendments created a nonconforming situation.

Section 4.03 -- GENERAL REQUIREMENTS

The following regulations shall apply to all nonconforming uses, structures, and lots:

A. Regulation of Nonconforming Uses

Any lawful use of the land or buildings existing on the date of enactment or amendment of this Ordinance and located in a district in which it would not be permitted as a new use or structure under the regulations of this Ordinance, is hereby declared to be a "nonconforming use". Nonconforming uses shall not be in violation of this Ordinance provided the nonconforming use is subject to and the owner complies with the regulations in this Article.

B. Continuation of Nonconforming Uses, Structures and Lots of Record

1. At the effective date of adoption of this Ordinance, any existing lawful use of land that would not be permitted by the regulations imposed by this Ordinance may be continued as long as it remains lawful.

2. At the effective date of adoption of this Ordinance, any existing lawful structure that could not be built under the restrictions on area, lot coverage, height, yards, location on the lot and other area and bulk requirements of this Ordinance, may be continued as long as it remains lawful.

3. The continuation of nonconforming lots of record shall comply with the provisions of Section 4.04.

C. Buildings under Construction

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner.

D. Discontinuation of Nonconforming Uses and Structures

1. Nonconforming Structure or Nonconforming Structure and Land in Combination

When a nonconforming, structure, or structure and land in combination, is discontinued or abandoned for twelve (12) consecutive months or discontinued for any period of time without a present intention to reinstate the nonconforming use, the structure or structure and land in combination shall not thereafter be used except in conformance with the provisions of the district in which it is located. Signs are an exception to this regulation. See Section 8.03.

2. Nonconforming Uses of Land

If any nonconforming use of land is discontinued for any reason for a period of one hundred eighty (180) days, any subsequent use of such land, including access**,** shall conform to the provisions set forth for the district in which it is located.

E. Purchase or Condemnation

In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the City of Midland, pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, may, but is not required to, acquire by purchase, condemnation or otherwise, private property for the purpose of removal of nonconforming uses.

F. Establishment of a Conforming Use or Structure

In the event that a nonconforming principal use or structure is superseded or replaced by a conforming principal use or structure on a site, any structure or structure and land in combination shall abide by the regulations of the district in which the structure is located and the nonconforming use may not thereafter be resumed.

G. Change of Tenancy or Ownership

In the event there is a change in tenancy, ownership, or management, an existing nonconforming use or structure shall be allowed to continue provided there is no change in the nature or character of such nonconformity.

H. Unlawful Nonconformity

No land use or structure shall be permitted to continue in existence if it was unlawful at the time it was established. Unlawful land uses and structures include, but are not limited to, uses established without proper zoning approval or a proper building permit.

I. Change of Location

1. Movement of Nonconforming Use

No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of the Ordinance.

2. Movement of Nonconforming Building or Structure

Should a nonconforming building or structure in whole or in part be moved to another parcel or to another location on the same parcel for any reason whatsoever, it shall thereafter conform to all of the regulations for the district in which such building or structure will be located.

Section 4.04 -- NONCONFORMING LOTS OF RECORD

The following regulations shall apply to any nonconforming legally created lot, nonconforming lot of record or nonconforming lot described in a deed or land contract executed and delivered prior to the effective date of this Ordinance or amendment thereto:

A. Use of Nonconforming Lots

Any nonconforming lot shall be used only for a use permitted in the district in which it is located. Notwithstanding limitations imposed by other provisions of this Ordinance, a permitted use may be erected on any single lawfully created lot of record in existence at the effective date of adoption or amendment thereto. This provision shall apply even though such lot fails to meet the requirements for area, and/or width and/or road frontage, provided that the lot can be developed in compliance with other dimensional requirements (such as setback requirements) without any significant adverse impact on surrounding properties or the public health, safety, and welfare.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory building may be erected on any single "lot of record" (see definition – Section 2.02) at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lots fail to meet the requirements for area and width, or both, generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulation for the district in which the lot is located.

Section 4.05 -- MODIFICATION TO NONCONFORMING USES OR STRUCTURES

Except as permitted in this Section, no nonconforming use or structure shall be enlarged, extended, or structurally altered, nor shall any nonconformity be changed to a different nonconformity which increases the intensity of use or nonconformity. Examples of enlargements or increases in intensity include, but are not limited to, the further encroachment of a structure into a required side yard, the addition of sales area to a nonconforming retail use and the start of a nonconforming use which has greater noise, traffic, and/or nuisance impacts than an existing nonconforming use.

A. Applicability

The following regulations shall apply to any nonconforming use or structure, including:

1. Nonconforming use of buildings designed for a conforming use.

2. Nonconforming use of buildings specifically designed for the type of use which occupies them but not suitable for a conforming use.

3. Buildings designed and used for a conforming use but not in conformance with area and bulk, parking, loading, or landscaping requirements.

4. Nonconforming structures, such as fences. Signs are an exception to this regulation. See Section 8.03.

5. Nonconforming uses without structures.

6. Nonconforming driveways.

B. Enlargement, Extension, or Alteration

1. Increase in Nonconformity Prohibited

Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of any nonconformity. For example, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

a. An increase in the total amount of space devoted to a nonconforming use, or

b. Greater nonconformity with respect to dimensional restrictions, such as setback requirements, height limitations, density requirements, or other requirements in the district in which the property is located, unless a variance is granted by the Zoning Board of Appeals.

2. Permitted Extension

Any nonconforming use may be extended throughout any part of a building, which was manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building. No nonconforming use of land shall be enlarged, increased, or extended to occupy a greater area of land, nor shall any such use be moved in whole or in part to any portion of the lot or parcel than was occupied on the effective date of this Ordinance or amendment thereto, except as follows:

a. Any nonconforming place of worship, on the effective date of this Ordinance, nonconforming due to a lack of lot area or yard requirements, may be increased in building area provided said expansion conforms to all requirements in this Ordinance.

b. A dwelling nonconforming due to its location in a non-permitted district may be expanded or enlarged for residential purposes up to fifty percent (50%) of the existing ground floor area. Accessory buildings may be constructed or expanded upon the same lot.

3. Alterations that Decrease Nonconformity

Any nonconforming structure or any structure or portion thereof containing a nonconforming use, may be altered if such alteration serves to decrease the nonconforming nature of the structure or use. Signs are an exception to this regulation. See Section 8.03.

4. Variance to Area and Bulk Requirements

If a proposed alteration is deemed reasonable by the Zoning Board of Appeals by virtue of the fact that it would decrease the nonconforming nature of a structure or use, but such alteration requires a variance from the area or bulk requirements, then such alteration shall be permitted only if a variance is granted by the Zoning Board of Appeals.

C. Repairs, Improvements, and Modernization

1. Permitted Improvements

Ordinary building repairs, repair or replacement of fixtures, wiring or plumbing in a nonconforming structure or portion of a structure containing a nonconforming use shall be permitted provided such repairs or improvements do not exceed fifty percent (50%) of the assessed value of the structure during any period of twelve (12) consecutive months. Any such repairs, improvements, and modernization shall not result in enlargement of the cubic content of the nonconforming structure. The provisions in this paragraph shall apply to all structures except as otherwise provided in this Article for reconstruction of structures damaged by fire or other catastrophe.

2. Required Repairs

Repairs or maintenance deemed necessary by the Building Official to keep a nonconforming building structurally safe and sound are permitted. However, if a non-conforming structure or a structure containing a nonconforming use becomes physically unsafe and/or unlawful due to lack of maintenance and repairs and is declared as such by the Building Official, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.

D. Damage by Fire or Other Catastrophe

Any nonconforming structure or structure housing a nonconforming use that is damaged by fire, collapse, explosion, acts of God or acts of public enemy may be reconstructed, repaired or restored provided the following:

1. Reconstruction Expense

The following nonconforming uses or structures may be repaired or restored provided that the expense of such reconstruction is not in excess of fifty percent (50%) structure's pre-catastrophe fair market value as determined by the City Assessor:

a. Residential Use in Residential Districts
b. Non-Residential Use in Residential Districts
c. Uses in Non-Residential Districts
d. Structure in any District

Persons aggrieved by a determination of the pre-catastrophe fair market value by the City Assessor may appeal such determination to the Zoning Board of Appeals.

2. Timing

The restoration of the structure and the resumption of use shall commence within six (6) months of the time of when the damage occurred. Where pending insurance claims require an extension of time, the Building Official may grant a time extension provided that the property owner submits a certification from the insurance company attesting to the delay.

ARTICLE 5.00

PARKING AND LOADING

Section 5.01 -- OFF-STREET PARKING REQUIREMENTS

A. Scope of Off-Street Parking Requirements

Compliance with the off-street parking regulations shall be required as follows:

1. General Applicability

For all buildings and uses established after the effective date of this Ordinance, off-street parking shall be provided as required in this Section prior to issuance of a Certificate of Occupancy. However, where a building permit has been issued prior to the effective date of the Ordinance and construction has been diligently carried on, compliance with the parking requirements at the time of issuance of the building permit shall be required.

The Downtown District and the Circle District have different parking standards than otherwise required in this Article. Please refer to subsections 5.01.C.8 and 5.01.C.9.

2. Change in Use or Intensity

Whenever use of a building, structure, or lot is changed, parking facilities shall be provided as required by this Ordinance for the new use, regardless of any variance which may have been in effect prior to change of use.

If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in gross floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.

3. Existing Parking Facilities

Off-street parking facilities in existence on the effective date of this Ordinance shall not thereafter be reduced below, or if already less than, shall not be further reduced below the requirements for the use being served as set forth in this Ordinance.

An area designated as required off-street parking shall not be changed to any other use unless equal facilities are provided elsewhere in accordance with the provisions of this Ordinance.

4. Provision of Off-Street Parking

Off-street parking may be provided by either individual action or by a parking program carried out through public action, whether by a special assessment district or otherwise.

B. General Requirements

In all zoning districts, off-street vehicle parking facilities shall be provided and maintained as herein prescribed:

1. Materials

a. All off-street parking and driveways shall consist of an improved surface of concrete, asphalt or brick.

b. Gravel or crushed stone may be used for off-street parking and driveways for uses in the Agricultural, Industrial A, and Industrial B zones.

2. Residential Parking

Off-street parking spaces for single family or two family dwellings shall consist of a parking area, driveway, garage, or combination thereof and shall comply with the following regulations:

a. The maximum part of required front and side street yards used for parking shall not exceed the requirements listed in Table 5.1. These standards may be modified only if full compliance prohibits the installation of a nine foot wide driveway to an individual residential lot.

Table 5.1 – Maximum Parking Area in Front and Side Street Yards

Zoning District	Maximum Required Front Yard Coverage	Maximum Required Side Street Yard Coverage
Residential A-1, A-2	50%	35%
Residential A-3, A-4, B	50%	50%

b. No vehicle parked in the front yard parking area shall extend over any portion of the lot line, street right-of-way, or public street sidewalk.

c. On corner lots, parking is permitted in the side street yard between the house and the street property if all provisions of this Article are met. No parking area shall be created on a corner lot in the vehicular sight zone, as defined in Article 2.00.

d. For multiple family dwellings and any permitted use other than one or two-family dwellings, the following restrictions apply:

(1) No parking of vehicles and no maneuvering lane for parking areas shall be located within twenty-five (25) feet of a street property line.

(2) No parking space and maneuvering lane shall be located within ten (10) feet of any interior property line in any Residential Zoning District.

e. Commercial and Recreational Vehicle Parking: Commercial and recreational vehicle parking in residential districts shall comply with the standards in Sections 5.01.E and 5.01.F, respectively.

3. Non-Residential Parking

Off street parking in non-residential districts shall comply with the following:

a. Office-Service

(1) No parking space or maneuvering lane shall be permitted within ten (10) feet of any street property line.

(2) No parking space or maneuvering lane shall be permitted within ten (10) feet of any abutting Residential District.

b. Community Districts No parking space or maneuvering lane shall be permitted within ten (10) feet of the street lot line or within ten (10) feet of any interior lot line abutting a residential district.

c. NC, CC, RC, D, DO, DNO and C; Industrial A and B; and LCMR Districts

(1) No parking space or maneuvering lane shall be permitted within ten (10) feet of any street property line, or within ten (10) feet of any lot line abutting any Office-Service, or Community District lot line. No parking space or maneuvering lane shall be within 25 feet of a Residential District.

(2) Any permitted storage area shall be set back at least twenty-five (25) feet from any street property line, fifty (50) feet from any abutting Residential District, and ten (10) feet from any abutting Office-Service or Community District.

d. Non-residential Uses in Agricultural or Residential Districts

(1) No parking space or maneuvering lane shall be permitted within twenty-five (25) feet of any street property line.

(2) No parking space or maneuvering lane shall be permitted within one hundred (100) feet of any abutting Residential District.

4. Access to Parking Located in a Parking Lot

Each off-street parking space in a parking lot shall open directly onto a clearly-defined aisle or driveway of sufficient width and design as to provide safe and efficient access to or from a public street, private street, or alley in a manner that will least interfere with the smooth flow of traffic.

a. Parking designed for backing directly onto a street or road is prohibited.

b. Access to off-street parking which serves a non-residential use shall not be permitted across land that is zoned or used for residential purposes.

5. Collective Use of Off-Street Parking

a. The total number of spaces provided collectively may be reduced up to 20% of the sum of spaces required for each separate use.

b. If the operating hours of the buildings or uses overlap, the total number of spaces may be reduced beyond the 20% figure to a number deemed reasonable by the Planning Commission based on the characteristics of the buildings or uses at the time of site plan review.

c. In the case of new development or redevelopment, shared access and/or shared parking may be required at the time of site plan review in order to further the access management goals of the zoning ordinance as described in Section 3.1.

6. Storage or Sale of Merchandise

The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles are prohibited in required non-residential off-street parking lots or areas. Emergency service required to start vehicles shall be permitted.

The use of required parking areas for material storage, refuse storage stations/dumpsters, storage or display of vehicles and/or merchandise, or for vehicle or machinery repair or maintenance is prohibited. The use of any vehicle or shipping containers for sale or storage purposes on the premises for five (5) or more consecutive days is prohibited.

7. Parking Lot Deferment – Office, Commercial, Industrial and Agricultural Districts

Where the property owner can demonstrate or the Planning Commission finds that the parking required by Table 5.3 is excessive for a use in the Office, Commercial, Industrial or Agricultural District, the Planning Commission may approve a smaller parking area provided the following conditions are met:

a. A deferred parking area of sufficient size to meet the parking space requirements of Table 5.3 is retained as open space. The site plan shall note the area where parking is being deferred, including dimensions and dotted parking layout.

b. The owner agrees to construct the additional parking at the direction of the Planning Commission based on observed usage within six (6) months of being informed of such request in writing by the Building Department.

c. A written legal agreement, which has been approved by the City Attorney, to construct the deferred parking shall be provided by the applicant.

d. The Building Department may require posting of a performance bond to cover the estimated construction cost of the deferred parking with a refund in two (2) years if the additional parking is not found to be necessary.

e. Barrier free spaces shall be provided based on the number of parking spaces being constructed. The site plan shall note the locations of additional barrier free spaces that will be required should the deferred parking be constructed.

C. Minimum Number of Spaces Required

The following standards shall be used in determining the required number of parking spaces:

1. Definition of Floor Area

For the purposes of determining required number of parking spaces, "floor area" shall be measured in accordance with the definitions in Article 2.00. Where areas are not defined, usable floor area shall equal eighty percent (80%) of the gross floor area as defined in Article 2.00.

2. Units of Measurement

a. <u>Fractional Spaces</u>

When calculations for determining the required number of parking spaces results in a fractional space, any fraction of less than one-half (½) may be disregarded, while a fraction of one-half (½) or more shall be counted as one space.

b. <u>Employee Parking</u>

When required, parking spaces required for employees shall be based on the maximum number of employees on the premises at any one time. Employee parking may be located off site with proof of parking agreement or ownership of parking area.

3. Uses Not Cited

For those uses not specifically mentioned, the requirements for off-street parking for a similar use shall apply, as determined by the Director of Planning and Community Development.

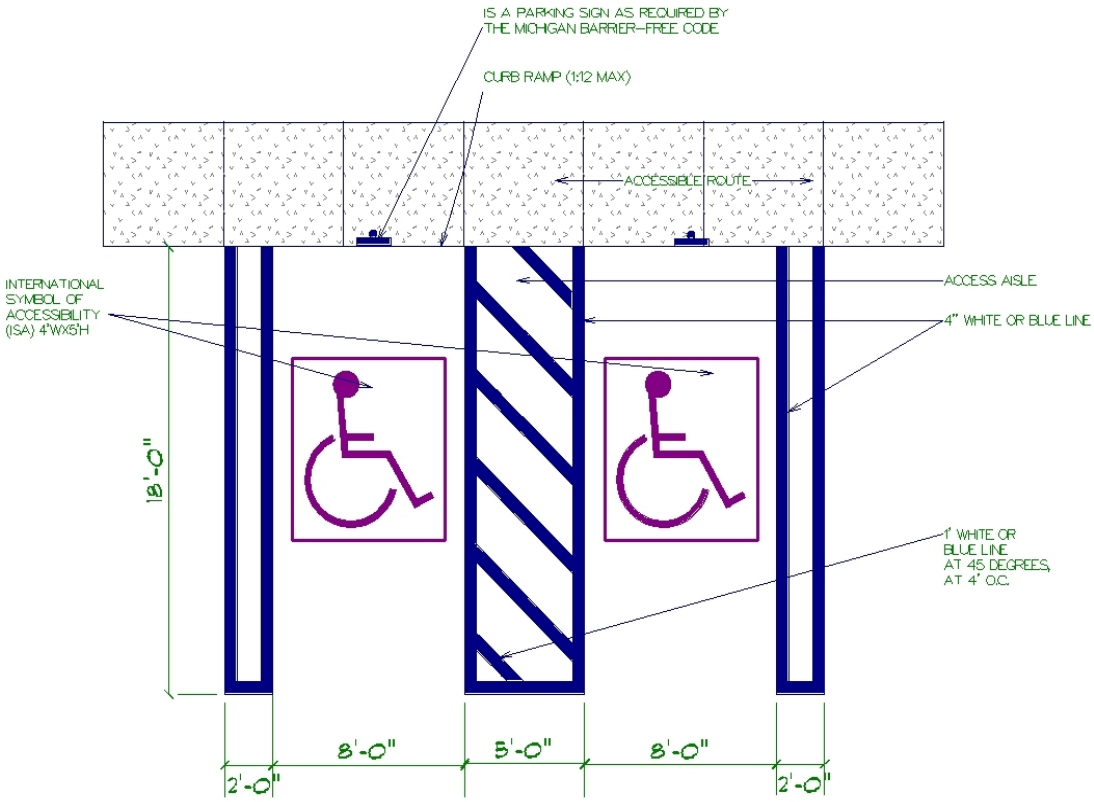
4. Parking for the Physically Handicapped

Parking for the handicapped shall comply with the State of Michigan Barrier-Free Rules, Michigan Public Act No. 1 of 1966, as amended, the adopted City Building Code, and the Federal Americans with Disabilities Act (See illustrations on pages 5-6, 5-7 and 5-8).

Table 5.2 indicates the number of barrier-free spaces required.

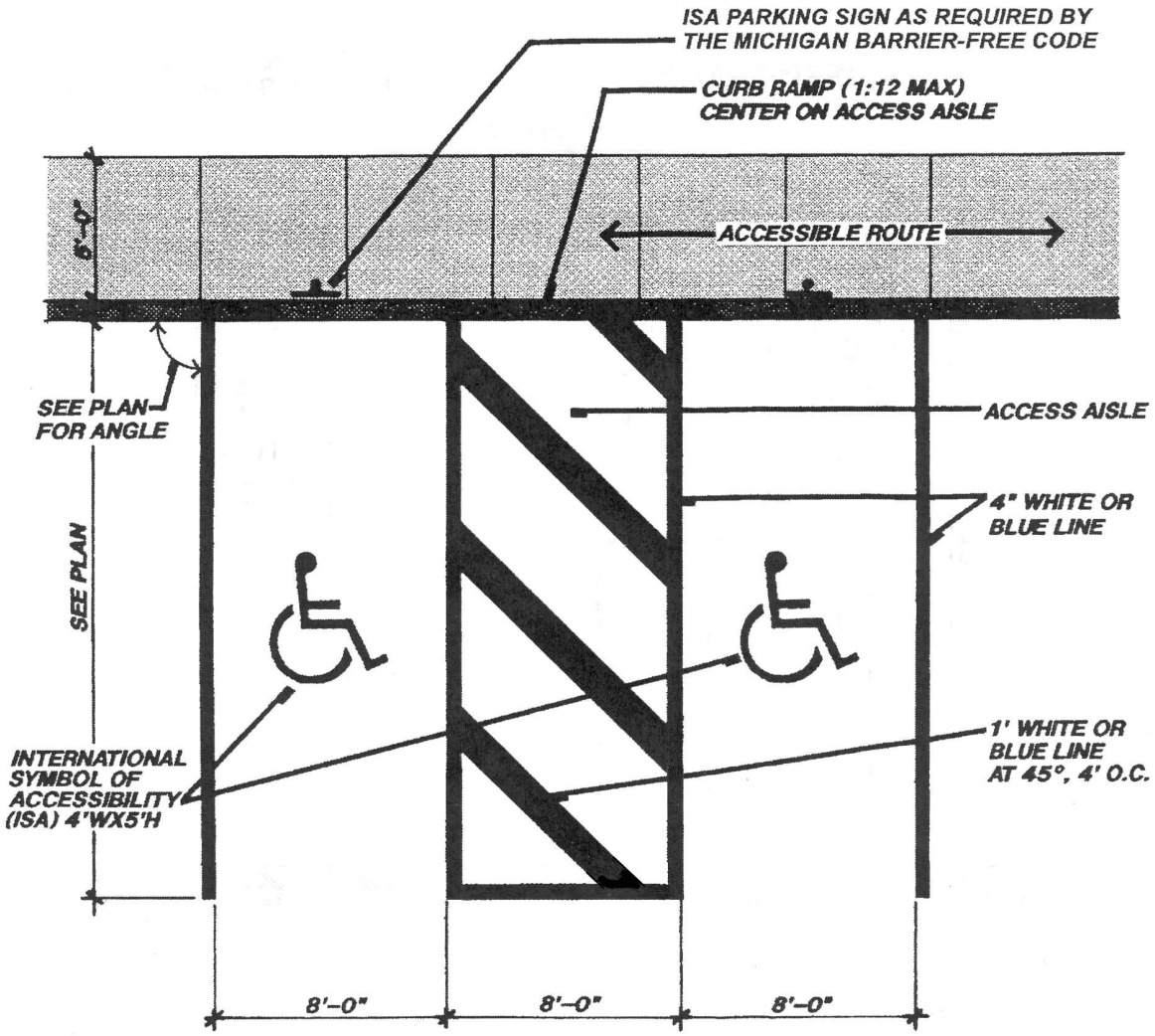
Table 5.2: REQUIRED BARRIER FREE SPACES

Total Number of Parking Spaces Provided in Lot	Total Minimum Required Number of Barrier-Free Spaces	Van Accessible Parking Spaces (minimum 8' wide access aisle)	Accessible Parking Spaces (minimum 5' wide access aisle)
Up to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1,000	2% of total parking provided in each lot	1 out of every 8 accessible spaces	7 out of every 8 accessible spaces
1,001 and over	20 plus 1 for each 100 spaces over 1,000	1 out of every 8 accessible spaces	7 out of every 8 accessible spaces



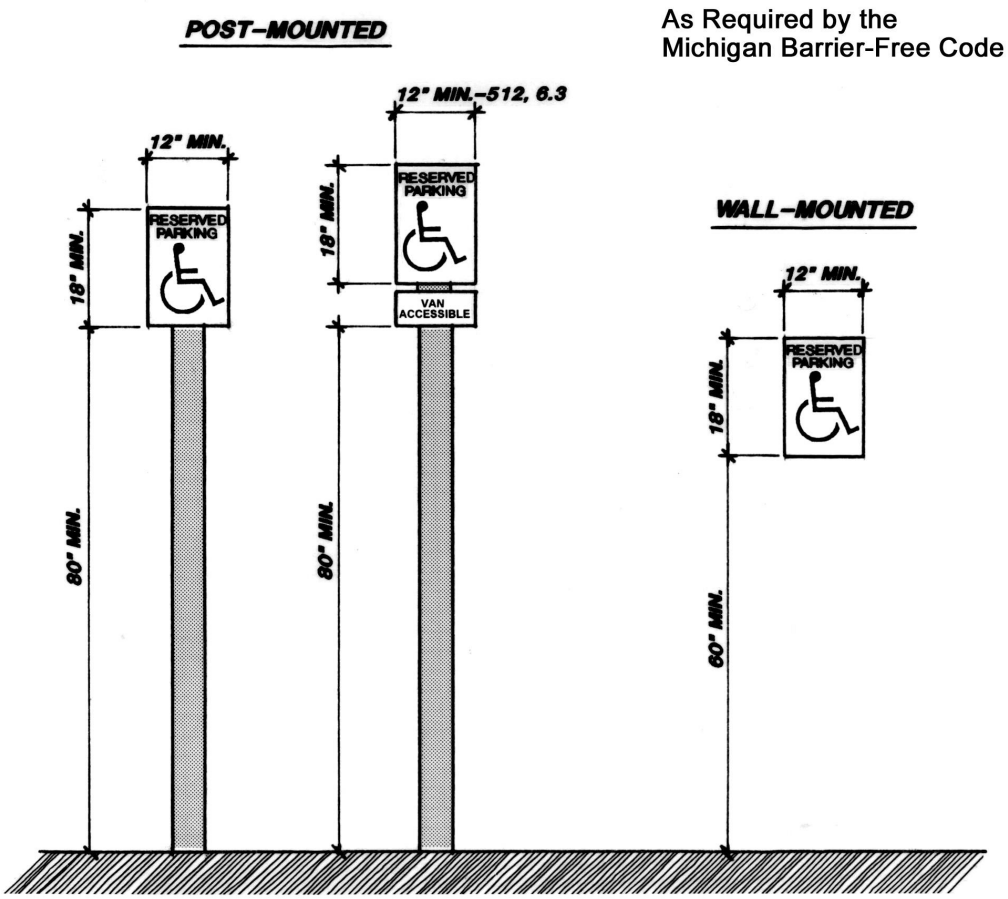
BARRIER-FREE PARKING SPACE LAYOUT-STANDARD

NOTE: BARRIER-FREE PARKING SPACES SHALL BE LOCATED TO THE NEAREST ACCESSIBLE ENTRANCE ON AN ACCESSIBLE ROUTE



BARRIER-FREE PARKING SPACE LAYOUT VAN ACCESSIBLE

NOTE: BARRIER-FREE PARKING SPACES SHALL BE LOCATED TO THE NEAREST ACCESSIBLE ENTRANCE ON AN ACCESSIBLE ROUTE. ONE (1) IN EVERY EIGHT (8) ACCESSIBLE SPACES, BUT NOT LESS THAN ONE, SHALL BE SERVED BY AN ACCESS AISLE 8'-0" WIDE MINIMUM AND SHALL BE DESIGNATED "VAN ACCESSIBLE"



Barrier-Free Reserved Parking Signs

NOTE: ACCESSIBLE PARKING SPACE SIGNS SHALL HAVE A MINIMUM HEIGHT AND SIZE TO PERMIT THE SPACE TO BE EASILY IDENTIFIED AND SHALL BE ELEVATED SUCH THAT THEY SHALL NOT PRESENT A HAZARD TO PERSONS WALKING NEAR THE SIGN.

5. Use of Loading Space

Required loading space shall not be counted or used for required parking.

6. Stacking Spaces

All stacking spaces required in the Schedule of Off-Street Parking shall be provided off-street and conform to the standards in Section 5.01.D.

7. Maximum Parking Allowable

In order to minimize excessive areas of pavement which depreciate aesthetic standards and contribute to high rates of storm water runoff, exceeding the minimum parking space requirements by greater than twenty percent (20%) shall not be allowed, except as approved by the Planning Commission. In granting such additional space, the Planning Commission

shall determine that such parking will be required, based on documented evidence, to accommodate the use on a typical day. These requirements do not apply to one or two family dwelling units.

8. Minimum Number of Spaces Required in the D (Downtown) District

Development in the D (Downtown) District is exempt from providing off-street parking, provided that any establishments with drive-in or drive-up windows for servicing patrons in automobiles shall provide the necessary off street stacking spaces for waiting vehicles as required herein. Should any establishment in the D (Downtown) Zoning District choose to provide off-street parking, it shall be constructed in accord with the standards contained in Section 5.01.D.

9. Minimum Number of Spaces Required in the C (Circle) District

The amount of required off-street parking in the C (Circle) District shall comply with the following regulations:

a. Required parking in the C (Circle) District shall be one-half (1/2) of the parking otherwise required by Table 5.3. Any fractional parking spaces that result shall be rounded up.

b. Any establishments with drive-in or drive-up windows for servicing patrons in automobiles shall provide the necessary off street stacking spaces for waiting vehicles as required herein.

c. Off-street parking spaces in the C (Circle) District shall be constructed in accord with the standards contained in Section 5.01.D.

d. Off-street parking may be provided in the Circle District through the use of collective parking per Section 5.01.B.8. Off-street parking may be provided within 500 feet of the building it is intended to service, measured from the nearest point of the building.

Table 5.3: SCHEDULE OF MINIMUM REQUIRED OFF-STREET PARKING

Land Use	Number of Spaces Required
Residential Uses	
Single and Two-Family, Detached	2 spaces per dwelling unit (may be in a garage).
Multiple-Family	1.5 spaces per each efficiency or one-bedroom dwelling unit, and 2 per each unit with 2 or more bedrooms. Supplemental guest parking shall be provided at the rate of 1 additional space per 3 dwelling units
Housing for the Elderly	One (1) space per 1 dwelling units + one (1) space per employee present on largest shift. Guest parking shall be provided at a rate of 1 additional space per 3 dwelling units
Mobile Home Parks	Parking should be provided in accordance with the Michigan Mobile Home Commission Rules and the Mobile Home Commission Act, Public Act 96 of 1987, as amended
Institutional or Public Uses	
Places of Worship	One for each 3 fixed seats, 1 for each 6 feet of pews or benches and 1 for each 30 square feet of assembly floor area without fixed seats, including all areas used for worship services at any one time.
Child Care Centers	One (1) space per employee + 1 off street loading place for every 10 pupils
Clubs, Lodges, Fraternal Buildings, Day Shelter, Soup Kitchen	One (1) space per 100 sq. ft. of ***usable*** floor area

Land Use	Number of Spaces Required
Correctional Facility, Residential Inpatient Treatment Center, Transitional Housing	One (1) space per each employee/staff assigned on the shift having the greatest number of employees/staff members plus one space for every 4 beds.
Fraternities, Sororities, Dormitories	1 per 5 permitted active members or 1 for each 2 beds, whichever is greater
Hospitals	3 spaces per bed + one space per 150 sq. ft. of usable floor area for offices, outpatient services, and hospital support facilities + one (1) space per 2 fixed seats in an auditorium
Museums, Libraries, Non-Profit Art Galleries, or Similar Facilities	One (1) space per each 500 sq. ft. of usable floor area
-Housing for the Elderly, Dependent Care	One (1) space per 5 beds + one space per employee present on greatest shift
Public Utility Use	One (1) space per employee
Schools, Elementary and Junior High	One (1) space per employee plus additional spaces shall be provided as required for any auditorium or public meeting space.
School, Senior High	One (1) space per employee + one (1) space per 10 students. Additional spaces shall be provided as required for any auditorium, stadium, or other public meeting spaces.
School, Vocational, Technical, and Post-Secondary Educational Facilities	One (1) space per employee + one (1) space per student. Additional spaces shall be provided as required for any auditorium, stadium, or other public meeting spaces.
Assembly Facilities such as auditoriums, conference centers, stadiums, sports facilities, etc.	One (1) space per 100 sq. ft. of usable floor area used for public assembly not used for fixed seats + one (1) space per 4 fixed seats in the main assembly area or 1 space per 8' of benches + one space per employee.
Office Uses	
Business and Professional Offices	One (1) space per 300 sq. ft. of usable floor area.
Medical, Dental and Veterinary Clinics	One (1) space per 150 sq. ft. of usable floor area.
Business and Commercial Uses	
Auto or Vehicle Service/Repair/Filling Station,	One (1) space per vehicle capable of being fueled at 1 time (the space in front of the pump may count as a parking space) + 2 spaces per service or repair bay (the service or repair bay does not count as a parking space) + one (1) space per employee. Off-street parking shall be provided for convenience stores and other uses operated in conjunction with an auto service station, based on standards set forth herein
Automobile Wash	One (1) space per employee present on largest shift + 10 stacking spaces per automatic wash operation or line (at least one stacking space shall be on the exit side of the wash line)
Banks, Financial Institutions	One (1) space per 300 sq. ft. of usable floor area In addition, financial institutions with drive-in windows shall provide 3 stacking spaces for each window and ATM
Beauty or Barber Shops	3 spaces per chair for the first two chairs + 1.5 spaces per each additional chair
Grocery/ Convenience Stores	One (1) space per 180 sq. ft. of usable floor area
Funeral Homes	One (1) space per 25 sq. ft. of floor area of assembly rooms
Hotels, Motels, Bed and Breakfasts, Boarding and Rooming Houses and Other Lodging	One (1) space per occupancy unit + one (1) space per employee present on greatest shift. Spaces shall be provided as required for restaurants, bars, assembly rooms, and other affiliated uses
Ice Cream Parlors	One (1) space per 100 sq. ft. of usable floor area.
Laundromats and Coin-Operated Cleaners	One (1) space per 2 washing and/or dry cleaning machines
Mini-Warehouses, Self-Storage Establishments	One (1) space per 10 storage units, equally distributed throughout the storage area + 1 unit per Manager's or caretakers quarters + 1 unit per 50 storage units located at the project office.

Land Use	Number of Spaces Required
Motor Vehicle Sales	One (1) space per 200 sq. ft. of usable floor area exclusive of service areas + one (1) space per auto service stall in the service area + one (1) space per employee. All parking required above shall be exclusive from parking for vehicles being offered for sale
Outdoor Sales of Nursery Stock, Garden Supplies, and Produce.	One (1) space per 500 sq. ft. of gross floor area + one (1) space per 2,000 sq. ft. of outside lot area. In addition, spaces will be provided as required for retail sales within a building
Radio or Television Station or Studio	One (1) space per employee. In addition, spaces shall be provided for any auditorium or public seating space within a studio.
Recreational Vehicle Sales, Trailer Sales and Rental	One (1) space per 400 square feet of showroom space. All parking required shall be exclusive from parking for vehicles for sale.
Bar/Lounge	One (1) space per 100 sq. ft. of usable floor area. Parking for that portion used principally for dining shall be based on the requirements for "Restaurants, Standard".
Restaurants	One (1) space per 4 seats + one (1) space per employee + 5 stacking spaces per drive-through lane. Outdoor seating areas shall count toward total parking required unless the proprietor demonstrates that outdoor seating areas do not increase the capacity of the restaurant.
Restaurants, Standard	One (1) space per 4 seats + one (1) space per employee. Outdoor seating areas shall count toward total seating required unless the proprietor demonstrates that outdoor seating areas do not increase the capacity of the restaurant.
Retail Sales and Business Services	One (1) space per 300 sq. ft. of usable floor area.
Retail Sales and Business Services (including furniture, appliance, and carpet retail) where warehousing, storage, work, or display space occupies two-thirds (2/3) or more of the building	One (1) space per 800 sq. ft. of usable floor space
Shopping Centers	Centers with less than 400,000 sq. ft.: one (1) space per 225 sq. ft. of gross leasable floor area. Centers with 400,000 – 600,000 sq. ft.: one (1) space per 200 sq. ft. of gross leasable floor area. Centers with more than 600,000 sq. ft.: one (1) space per 175 sq. ft. of gross leasable floor area or the parking requirements for restaurants located in a retail strip center shall be computed separately and added to the parking requirements for the other uses. Centers with 100,000 sq. ft. of retail uses or less: one (1) space per 250 sq. ft. of gross floor area, whichever is less.
Wholesale Sales Stores, Machinery Sales, Showrooms for Plumbers, Electricians, or Similar Trades	One (1) space per 500 sq. ft. of usable floor area.
Industrial and Warehousing Uses	
Contractor or Construction Use	One (1) space per employee
Manufacturing or Industrial Establishments	One (1) space per 750 sq. ft. of gross floor area
Warehouses and Storage Buildings	One (1) space per 10,000 sq. ft. of gross floor area + required spaces for any office or sales area + one (1) space per 2 employees on the largest shift.
Lumber and Supply Yards, and Wholesale Establishments	One (1) space per 1,000 sq. ft. of gross floor area + required spaces for any office or sales area, OR One (1) space per 2***.5*** employees + required spaces for any office or sales area, whichever is greater
Recreation Uses	
Softball, Baseball, Soccer, football, Fields other than stadiums	25 spaces per playing field

Land Use	Number of Spaces Required
Bowling Alleys	5 spaces per lane. Additional spaces shall be provided as required for restaurants, bars, and other affiliated uses.
Commercial Amusements	One (1) space per 200 sq. ft. of usable floor area
Dance Halls, Health Spas, Pools or Billiard Parlors, Skating Rinks, Exhibition Halls, Assembly Halls without Fixed Seats, Fitness Centers, and Similar Indoor Recreation Uses	One (1) space per 2 persons who may legally be admitted at one time based on the occupancy load established by local codes + one (1) space per employee
Golf Course, public or private	6 spaces per golf hole + one (1) space per employee Additional spaces shall be provided for the clubhouse, restaurant, pro shop, or other affiliated facilities
Golf Course, Miniature or Par 3	3 spaces per golf hole + one (1) space per employee Additional spaces shall be provided as required for clubhouse, restaurant, pro shop, or other affiliated facilities.
Golf Driving Range	One (1) space per tee
Swimming Pools/***Clubs***	One (1) space per 4 persons who may legally be admitted at one time based on the occupancy load established by local code + one (1) space per employee
Tennis Clubs and Court Type Recreation Uses	One (1) space per person admitted based on the capacity of the courts + one (1) space per employee Additional spaces shall be provided as required for restaurants, bars, pro shops, and other affiliated facilities.

D. Layout and Construction

Off-street parking lots, as defined in Section 2.02, shall be designed, constructed, and maintained in accordance with the following requirements. This does not apply to driveways servicing a one or two family dwelling unit.

1. Review and Approval Requirements

Plans for the construction of any parking lot shall be submitted for review to the Building Department and approval by the City Engineer and Director of Planning and Community Development. Upon approval by the City Engineer, the Director of Planning and Community Development shall review the plans. Upon approval from both the City Engineer and the Director of Planning and Community Development, a parking lot permit will be issued. No parking lot may be constructed without a parking lot permit.

Upon completion of construction, the parking lot shall be inspected and approved by the City Engineer before a Certificate of Occupancy can be issued for the parking lot and for the building or use the parking is intended to serve. In the event that required parking cannot be completed because of cold or inclement weather, a temporary Certificate of Occupancy may be issued by the Building Official provided the applicant first deposits a performance guarantee in accordance with Section 3.14.

2. Dimensions

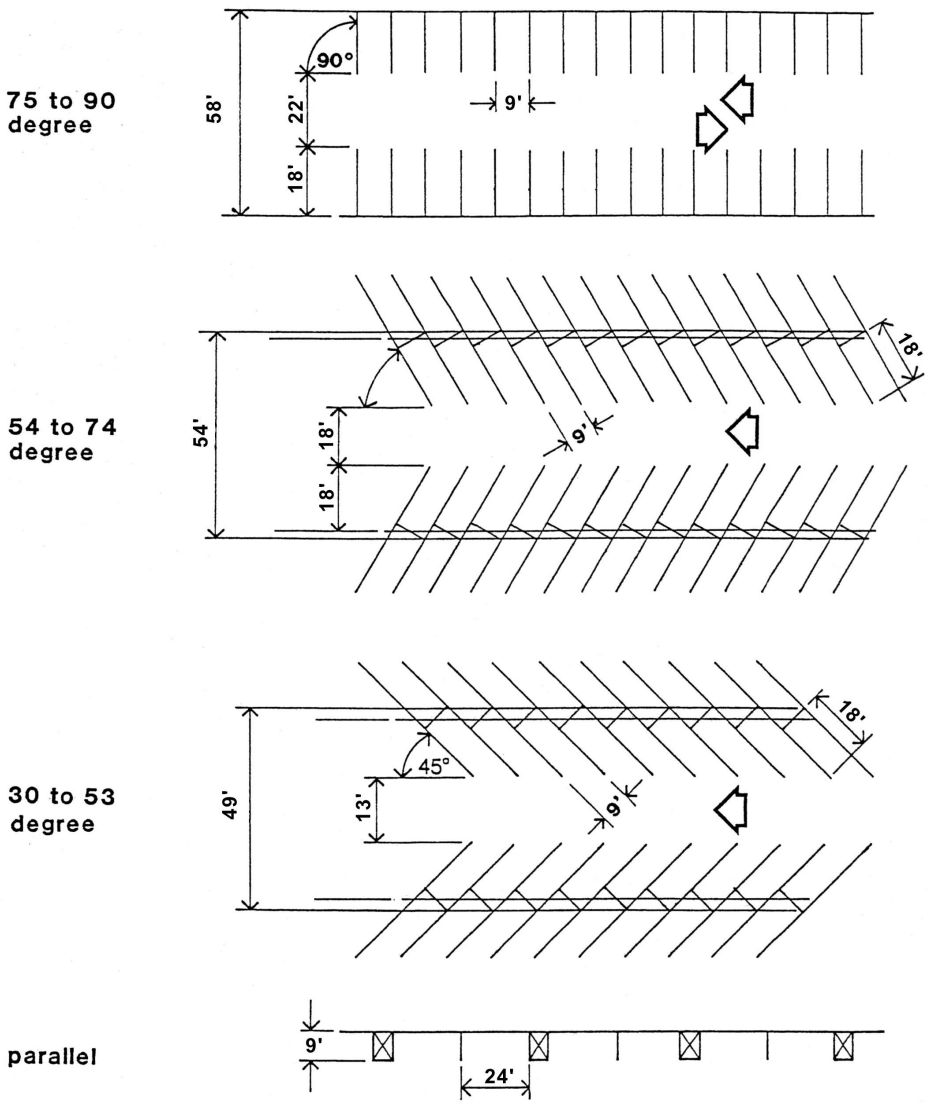
a. Off-Street Parking: Off-street parking shall be designed in conformance with the standards in Table 5.4 (see illustration on page 5-16).

b. Stacking Spaces: Stacking spaces shall be ten (10) feet wide and twenty-four (24) feet long. Stacking spaces shall not include the use of any parking space, loading or unloading area, street, alley or sidewalk nor conflict with ingress and egress to the site.

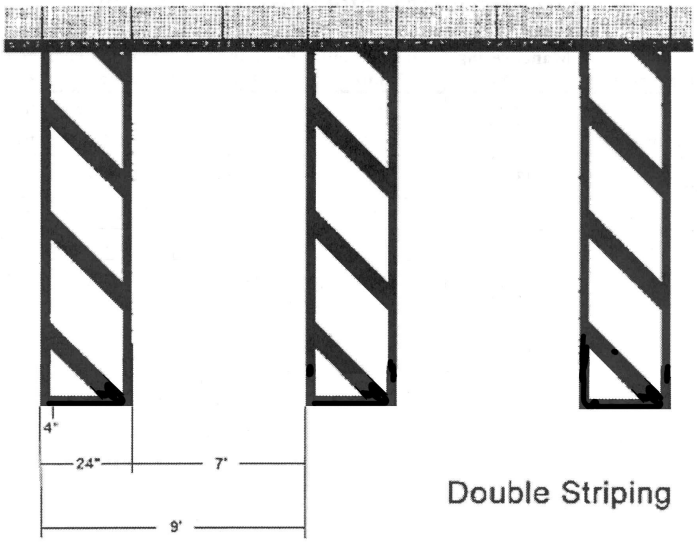
c. Driveways: Driveways providing access to commercial or industrial uses shall comply with the standards in Section 3.10.

Table 5.4: OFF-STREET PARKING DESIGN STANDARDS

Parking Angle	Maneuvering Aisle Width	Parking Stall Width	Parking Stall Depth	Total Width of Two Stalls of Parking Plus Maneuvering Aisle
0 degrees (parallel)	12 ft.	9 ft.	24 ft.	30 ft. (one-way traffic)
0 degrees (parallel)	24 ft.	9 ft.	24 ft.	42 ft. (two-way traffic)
30 to 53 degrees one-way traffic	13 ft.	9 ft.	18 ft.	49 ft. (one-way traffic)
54 to 74 degrees	18 ft.	9 ft.	18 ft.	54 ft. (one-way traffic)
75 to 90 degrees two-way traffic	22 ft.	9 ft.	18 ft.	58 ft. (two-way traffic)
75 to 90 degrees one-way traffic	20 ft.	9 ft.	18 ft.	56 ft. (one-way traffic)



PARKING LAYOUTS



3. Double Striping
All parking spaces shall be delineated by double striping along the sides (See illustration above).

4. Surfacing and Drainage
Grading, surfacing and drainage plans shall comply with all barrier-free requirement and be subject to review and approval by the City Engineer. All off-street parking areas, access lanes, driveways and other vehicle maneuvering areas shall be hard-surfaced with concrete or plant-mixed bituminous material.

Off-street parking areas, access lanes, and driveways shall be graded and drained to dispose of surface waters per City Engineer requirements. Surface water shall not be permitted to drain onto adjoining property, unless in accordance with an approved drainage plan.

5. Curbs, Wheel Chocks
A curb of at least six (6) inches in height shall be installed to prevent motor vehicles from being driven or parked so that any part of the vehicle extends within two (2) feet of abutting landscaped areas, sidewalks, streets, buildings, or adjoining property. Up to two (2) feet of overhang on sidewalks or landscaped areas may be counted toward parking stall length, provided that the sidewalk width is increased by two (2) feet.

In lieu of a curb, wheel chocks may be used. Wheel chocks shall be located 2 feet from the end of the stall.

6. Lighting
Except for one and two family residences, all parking areas, parking lot entrances, driveways, and walkways shall be illuminated to ensure the security of property and the safety of persons using such areas, in accordance with the requirements in Section 3.12. Lighting shall be arranged so as to reflect away from residential areas.

7. Parking Structures
Parking structures are permitted in commercial or industrial zoning districts and may satisfy off-street parking requirements. Parking structures are subject to the area, height, bulk and placement regulations for principal buildings in the zoning districts where they are located.

8. Signs
Accessory directional signs shall be permitted in parking areas in accordance with Article 8.00.

9. Screening and Landscaping
All off-street parking areas, except those serving single and two-family residences, shall be screened and landscaped in accordance with the provisions set forth in Article 6.00.

10. Parking Lot Restriping
All striping shall be clearly visible. Any time a parking lot is restriped, the spaces shall be delineated by double striping in accordance with item 3 of this sub-section.

E. Commercial Vehicle Parking in Residential Districts

One (1) commercial vehicle, truck and/or trailer with a rated capacity of one (1) ton or less may be parked on a single lot located in a residential zoning district for a period not to exceed forty-eight (48) consecutive hours. No commercial vehicle, truck and/or trailer with a rated capacity greater than one (1) ton shall be parked or stored on a residentially zoned property.

F. Recreational Vehicle Storage in Residential Districts

1. Parking and storage of recreational vehicles and recreational equipment, as defined in Section 2.02, shall be permitted on an improved surface between a street and the dwelling, and between the side lot lines and the dwelling. Parking and storage of recreational vehicles and

recreational equipment is permitted on an unimproved surface when parking and storage is located behind the dwelling.

2. For all residential uses other than one and two-family dwellings, the storage of recreational vehicles and recreational equipment is prohibited in required front and side street yard and is only allowed on an improved surface, in accord with the requirements of this Section 5.01.F, not less than ten (10) feet from any interior property line.

3. At no time, except in conformance with Section (4) below, shall any stored, parked or placed recreational vehicles and/or recreational equipment be occupied or used for living purposes. At no time shall any such recreational vehicle and/or equipment have fixed living purposes. At no time shall any such recreational vehicles and/or equipment, other than those with a valid permit and occupied in conformance with Section (4) below, have fixed connections.

4. A property owner / occupant may apply for a permit to occupy a recreational vehicle on a residential lot, in conjunction with an occupied permanent residence. Application for a recreational vehicle permit will be made at a Building Department and shall be issued to the occupant of the residence. Permits will be granted based on the following criteria:

a. Occupants of the recreational vehicle shall have free access to and unlimited use of the sanitary facilities of the dwelling on such premises.

b. No recreational vehicle shall be occupied for sleeping purposes by a greater number of persons than such vehicle is designed and arranged to accommodate.

c. No person shall spill or drain any waste water or liquid of any kind from any recreational vehicle upon the ground, or upon any unpaved area.

d. Every recreational vehicle parking permit shall be displayed in or on the recreational vehicle for which it was issued on the side nearest to a public street in such manner as to be readily noticeable at all times.

e. The property owner or occupant shall not have a recreational vehicle occupied on their property for longer than six (6) weeks during any one twelve (12) month period.

Section 5.02 -- LOADING SPACE REQUIREMENTS

A. Scope of Loading Space Requirements

Compliance with the loading space regulations set forth herein shall be required in order to avoid interference with the public use of streets, alleys, parking areas, driveways, sidewalks, and other public areas. Off-street loading shall not impede the flow of vehicular/pedestrian traffic on abutting streets and sidewalks.

1. General Applicability

On the same premises with every building, or part thereof, erected and occupied for manufacturing, storage, warehousing, retailing, display and sale of goods, including department stores, wholesale stores, markets, hotels, hospitals, mortuaries, laundries, dry cleaning establishments, and other uses involving the receipt or distribution of materials, merchandise, or vehicles, there shall be provided and maintained adequate space for loading and unloading as required in this section.

B. General Requirements

1. Location

Required loading space shall be located to the rear or on the side of the building being served such that it is screened from view from adjoining roads. Loading/unloading operations shall not interfere with traffic on public streets or off-street parking.

2. Size

Unless otherwise specified, each required loading space shall be a minimum of twelve (12) feet in width and fifty (50) feet in length, with a vertical clearance of fifteen (15) feet. This requirement may be modified upon making the determination that another standard would be more appropriate based on the number or type of deliveries experienced by a particular business or use.

3. Surfacing and Drainage

Loading areas shall be hard-surfaced with concrete or plant-mixed bituminous material. Loading areas shall be graded and drained so as to dispose of surface waters. Surface water shall not be permitted to drain onto adjoining property, unless in accordance with an approved drainage plan. Grading, surfacing, and drainage plans shall be subject to review and approval by the Building Official and/or City Engineer.

4. Storage and Repair Prohibited

The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles is prohibited in required loading space.

5. Use of Loading Space

Required loading space shall not be counted or used for required parking.

6. Central Loading

Central loading facilities may be substituted for individual loading spaces serving businesses on separate lots provided that all of the following conditions are fulfilled:

a. Each business served shall have direct access to the central loading area without crossing streets or alleys.

b. Total loading space provided shall meet the minimum requirements specified herein, in consideration of total floor area of all businesses served by the central loading space.

c. No building served shall be more than three hundred (300) feet from the central loading area.

ARTICLE 6.00

LANDSCAPING AND SCREENING

Section 6.01 -- INTENT AND SCOPE OF REQUIREMENTS

A. Intent

Except where specifically noted, the provisions in this Article do not apply to single family and two-family residential uses. Landscaping enhances the visual image of the City, preserves natural features, improves property values, and alleviates the impact of noise, traffic, and visual distraction associated with certain uses. Screening is important to protect less intensive uses from the noise, light, traffic, litter and other impacts of more intensive, nonresidential uses. The provisions in this article are intended to set minimum standards for the design and use of landscaping, greenbelts, and screening, and for the protection and enhancement of the City's environment. More specifically, the intent of these provisions is to:

1. Improve the appearance of off-street parking areas, vehicular use areas, and property abutting public rights-of-way,

2. Protect and preserve the appearance, character, and value of the residential uses that abut non-residential areas, parking areas, and other intensive use areas, thereby protecting the public health, safety and welfare,

3. Reduce soil erosion and depletion, and

4. Increase storm water retention, thereby helping to prevent flooding.

B. Scope of Application

No site plan shall be approved unless it shows landscaping consistent with the requirements of this Article. A Certificate of Occupancy shall not be issued unless provisions set forth in this Article have been met or a performance guarantee has been posted in accordance with the provisions set forth in Section 3.14. The requirements in this Article shall not apply to single family and two-family detached homes, unless otherwise specifically noted.

C. Minimum Requirements

The requirements in this Article are minimum requirements, and under no circumstances shall they preclude the developer and the City from agreeing to more extensive landscaping.

D. Summary of Regulations

The following table summarizes the landscaping regulations contained in this Article:

Table 6.1: SUMMARY OF MINIMUM LANDSCAPING REQUIREMENTS

Required Landscaping	Planting Requirements [1]					
	Landscaping Ratio	Minimum Height	Minimum Width	Deciduous or Evergreen Trees	Ornamental Trees	Deciduous or Evergreen Shrubs
General Site Landscaping	--	--	--	1 per 3,000 sq. ft. [2]	--	--
Landscaping Adjacent to Roads	--	--	10 ft.	1 per 40 lineal ft.		8 per 40 lineal ft.
Greenbelts	--	--	10 ft.	1 per 30 lineal ft.	--	[3]
Greenbelts used for Screening	--	6 ft.	10 ft.	[4]	--	--
Berms in Front Yard	--	[5]	[5]	1 per 40 lineal ft.	1 per 100 lineal ft.	8 per 40 lineal ft.
Berms used for Screening	--	3 ft.	[5]	[4]	--	--
Parking Lot Landscaping	20 sq. ft. per space	--	5 ft. [6]	1 per 300 sq. ft.	--	1 per 75 sq. ft.

Footnotes

[1] See Sections 6.02 and 6.03 for detailed requirements.
[2] General Site Landscaping for: mobile home parks: 2 trees plus 4 shrubs per lot.
multiple family uses:2 trees plus 4 shrubs per dwelling unit.
[3] Eight (8) shrubs may be substituted for each tree.
[4] Evergreens shall be closely spaced (no further than fifteen (15) feet apart) to form complete visual barrier within three (3) years.
[5] Berms shall have slopes no steeper than one (1) foot vertical for each three (3) feet horizontal. Thus, the minimum width is equal to total height multiplied by three (3). Maximum height of berms in the front yard: three (3) feet.
[6] Minimum area of each parking lot landscaped area: two hundred (200) square feet.

Section 6.02 -- GENERAL LANDSCAPING REQUIREMENTS

A. General Site Requirements

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

1. The site shall be planted with sod, ground cover, shrubbery, or other suitable live plant material, which shall extend to any abutting street property line. Grass areas in the front yard of all non-residential uses shall be planted with sod or hydro seed (grass seed).

2. A mixture of evergreen and deciduous trees shall be planted on non-residential parcels at the rate of one (1) tree per three thousand (3,000) square feet or portion thereof of any unpaved open area for which specific landscaping requirements do not appear later in this Article. Required trees may be planted at uniform intervals, at random, or in groupings.

B. Landscaping Adjacent to Streets

1. Planting Requirements

Where required, landscaping adjacent to streets shall comply with the following planting requirements (see Landscaping Adjacent to Roads diagram):

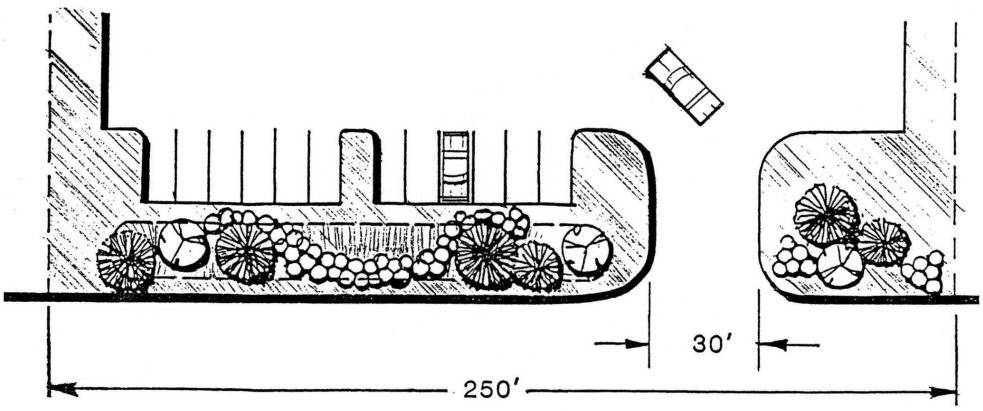
Table 6.2: LANDSCAPE MATERIAL PLANTING REQUIREMENTS

Type of Landscaping	Planting Requirements
Deciduous or Evergreen Tree	1 per 40 lineal feet of road frontage
Shrubs	8 per 40 lineal feet of road frontage

For the purposes of computing length of road frontage, openings for driveways and sidewalks shall not be counted. Trees and shrubs may be planted at uniform intervals, at random, or in groupings.

2. **Location and Dimensions**

Required landscaping adjacent to streets shall be located totally on private property within a planting strip adjacent to the street right-of-way. The minimum width of the planting strip shall be ten (10) feet. All landscaping in the clear vision areas, adjacent to driveways, shall not exceed 30 inches in height.



Landscaping Adjacent to Roads

Length of Road Frontage: 250 feet minus 30-foot driveway = 220 feet

<u>Required Number of Plants (Example)</u>

Deciduous or Evergreen Trees	220 ft./40 ft.	=	6
Shrubs	220 ft./40 ft. x 8	=	44
TOTAL			**50**

C. Berms

Where required, berms shall conform to the following standards:

1. Dimensions

Unless otherwise indicated or appropriate, required berms shall be measured from the grade of the parking lot or flat ground adjacent to the berm, and shall be constructed with slopes no steeper than one (1) foot vertical for each two (2) feet horizontal (50 percent slope), with at least a two (2) foot flat area on top. Berms may undulate in height, subject to review and approval of berm design as shown on the site plan. Unless otherwise indicated, the maximum height of required berms shall be three (3) feet.

2. Protection from Erosion

Any required berm shall be planted with sod, ground cover, or other suitable live plant material to protect it from erosion so that it retains its height and shape.

3. Required Plantings

a. Berms located in the front yard of non-residential parcels

Berms located in the front yard of non-residential parcels shall be landscaped in accordance with the requirements for Landscaping Adjacent to Roads, Section 6.02, sub-section B.

b. Berms used for screening other than in the front yard

Berms used for screening other than in the front yard shall be landscaped in accordance with the requirements for Screening, Section 6.02, sub-section E.

4. Measurement of Berm Length

For the purposed of calculating required plant material, berm length shall be measured along the exterior edge of the berm.

D. Greenbelts

Where required, greenbelts shall conform to the following standards:

1. Measurement of Greenbelt Length

For the purposes of calculating required plant material, greenbelt length shall be measured along the exterior edge of the greenbelt.

2. Dimensions

The minimum width of the greenbelt shall be ten (10) feet.

3. General Planting Requirements

a. Sod or Ground Cover Requirements

Sod, ground cover, or other suitable live plant materials shall be planted over the entire greenbelt area, except where paved walkways are used.

b. Tree and Shrub Requirements

Except where the greenbelt is used for screening, a minimum of one (1) deciduous or evergreen tree shall be planted for each thirty (30) lineal feet (or portion thereof) of required greenbelt. Alternatively, eight (8) shrubs may be substituted for each required tree. Trees and shrubs may be planted at uniform intervals, at random, or in groupings.

4. Greenbelts Used for Screening

Greenbelts used for screening shall be landscaped in accordance with the requirements for Screening, Section 6.02, sub-section E.

E. Screening

1. General Screening Requirements

Unless otherwise specified, wherever an evergreen or landscaped screen is required, screening shall consist of two rows of closely-spaced, staggered evergreen plantings (planted no more than fifteen (15) feet on-center) which can be reasonably expected to form a visual barrier that is at least six (6) feet above ground level within three (3) years of planting. A single row of evergreen screening planted ten (10) feet on center may be substituted if insufficient room exists to plant a staggered double row.

Deciduous plant materials may be used provided that a complete visual barrier shall be maintained throughout the year. Wherever screening is required adjacent to residentially zoned or used property, the screening shall be installed prior to the beginning of site grading and general construction, except where such activity would result in damage to the screening.

2. Screening of Equipment

Mechanical equipment, such as air compressors, pool pumps, transformers, sprinkler pumps, satellite dish antennae, air conditioners, and similar equipment shall be screened on all sides except those facing a building. Insofar as practical, said screening shall exceed the vertical height of the equipment being screened by at least six (6) inches. A three (3) foot open area shall be maintained around such equipment to facilitate repairs.

F. Parking Lot Landscaping

In addition to required screening, all off-street parking areas shall be landscaped as follows:

1. Landscaping Ratio

Off-street parking areas containing greater than ten (10) parking spaces shall be provided with at least twenty (20) square feet of interior landscaping per parking space. Whenever possible, parking lot landscaping shall be designed to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area.

2. Minimum Area

Landscaped areas in parking lots shall be no less than five (5) feet in any single dimension and no less than one hundred fifty (150) square feet in area. Landscaped areas in or adjacent to parking lots shall be protected with curbing or other means to prevent encroachment of vehicles. Curb cuts which permit drainage of landscaped areas may be designed as part of required curbing.

3. Other Landscaping

Required landscaping elsewhere on the parcel shall not be counted in meeting the parking lot landscaping requirements.

4. Required Plantings

Requirements for plant material shall be based on the location, size, and shape of the parking lot landscaped area. A minimum of one (1) shrub shall be planted per seventy-five (75) square feet or fraction thereof of interior parking lot landscaping, and one (1) tree shall be planted per three hundred (300) square feet or fraction thereof of interior landscaped area. At least fifty percent (50%) of each interior landscaped area shall be covered by living plant material, such as sod, shrubs, ground cover, or trees. Plantings within parking lots shall comply with the requirements for unobstructed sight distance set forth in Section 3.09.A(5). The landscape plan shall indicate the types, sizes, and quantities of plant material proposed for such area.

H. Maintenance of Unobstructed Visibility For Drivers

All landscaping shall comply with the provisions concerning Unobstructed Sight Distance set forth in Section 3.09.A(5).

I. Landscaping of Divider Medians and Cul-de-Sacs

Where traffic on driveways, maneuvering lanes, private roads, or similar vehicle access ways is separated by a divider median, the median shall be curbed and have a minimum width of ten (10) feet. A minimum of one (1) deciduous or evergreen tree shall be planted for each thirty (30) lineal feet or portion thereof of median. Trees may be planted at uniform intervals, at random, or in groupings, but in no instance shall the center-to-center distance between trees exceed sixty (60) feet. Curb cuts which permit drainage of landscaped areas may be designed as part of required curbing.

Cul-de-sacs and site entrances shall be landscaped with species tolerant of roadside conditions in Midland County.

J. Irrigation

The site plan shall indicate the proposed method of watering landscaped areas. Although not required, installation of an in-ground irrigation/sprinkler system is encouraged, particularly in front yards. Irrigation systems should be designed to prevent impervious surfaces.

Section 6.03 -- SPECIFIC LANDSCAPING REQUIREMENTS FOR ZONING DISTRICTS

A. Requirements for Commercial, Office, Community, Agricultural, and Industrial Districts

All lots or parcels located in commercial, office, community, agricultural, and industrial zoning districts shall comply with the following landscaping requirements:

1. **General Site Landscaping**
   All developed portions of the site shall conform to the General Site Requirements in Section 6.02, sub-section A, except where specific landscape elements are required.

2. **Landscaping Adjacent to Street**
   All commercial, office, and industrial developments shall comply with the requirements for landscaping adjacent to the street in Section 6.02, sub-section B.

3. **Berm Requirements**
   A berm may be used to screen off-street parking from view of the street, in which case the berm shall be a maximum of three (3) feet in height, and shall be planted in accordance with Section 6.02, sub-section B. The berm shall be located totally on private property, adjacent to the street right-of-way.

4. **Screening**
   Screening in the form of a landscaped berm or greenbelt shall be required wherever a non-residential use in a commercial, office, or industrial district abuts or is directly across the street from land zoned for residential purposes, and where loading areas would be visible from residential districts. Landscaped screening shall comply with the requirements in Section 6.02, sub-section E. If the length of the adjoining residentially zoned property is less than two hundred (200) feet, a wall or solid fence with a planting strip a minimum of three (3) feet in width may be erected in lieu of a berm or greenbelt.

The landscaping in the planting strip shall consist of appropriate landscaping material and be arranged to provide a maximum opacity to a minimum height of four (4) feet within three (3) years.

If a wall or fence is used instead of landscaping, the requirements in Article 7.00 shall be complied with, but a landscaped greenbelt shall be required on the side of the wall facing the residential district.

5. Parking Lot Landscaping

Off-street parking areas containing greater than ten (10) spaces shall comply with the requirements for parking lot landscaping in Section 6.02, sub-section F. Off-street parking areas containing five (5) or more parking spaces shall be screened on those sides which abut or are across the street from a residential zoning district. A landscape screen, berm, wall or fence may be used. Landscaped screening shall comply with the requirements in Section 6.02, sub-section E. If a wall or fence is used instead of landscaping, the requirements in Article 7.00 shall be complied with, but a landscaped greenbelt shall be required on the side of the wall facing the residential district.

B. Requirements for Multiple Family Developments

All lots or parcels of land used for multiple family developments shall comply with the following landscaping requirements:

1. General Site Landscaping

A minimum of two (2) deciduous or evergreen trees plus four (4) shrubs shall be planted per dwelling unit. Unless otherwise specified, required landscaping elsewhere in the multiple family developments shall not be counted in meeting these requirements for trees.

2. Landscaping Adjacent to Street

All multiple family developments shall comply with the requirements for landscaping adjacent to the street in Section 6.02 B.

3. Parking Lot Landscaping

Off-street parking areas in the front or side yard shall be screened with a hedge not less than three (3) feet in height or more than four (4) feet in height. Hedges shall comply with specifications for maintenance of unobstructed sight distance for drivers (Section 3.09.A(5)). Off-street parking areas containing greater than ten (10) spaces shall comply with the requirements for parking lot landscaping in Section 6.02 F.

4. Privacy Screen

Where multiple family dwellings are designed so that rear open areas or patio areas front onto a public street, a landscaped privacy screen shall be provided (see illustration on page 6-8). The screen may consist of a combination of trees, shrubs, and berms.

C. Requirements for Non-Residential Uses in Residential Districts

All non-residential uses located in residential zoning districts shall comply with the following landscaping requirements:

1. General Site Landscaping

All developed portions of the site shall conform to the General Site Requirements in Section 6.02 A, except where specific landscape elements are required.

2. Landscaping Adjacent to Street

All non-residential developments located in residential districts shall comply with the requirements for landscaping adjacent to the street in Section 6.02 B.

3. Berm Requirements

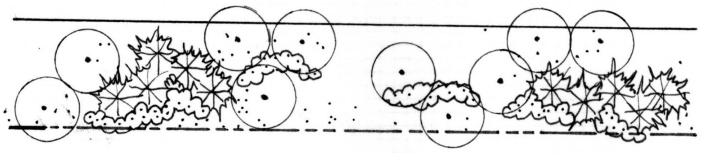
A berm may be used to screen off-street parking from view of the street, in which case the berm shall be a maximum of three (3) feet in height, and shall be planted in accordance with Section 6.02 B. The berm shall be located totally on private property, adjacent to the road right-of-way.

4. Screening

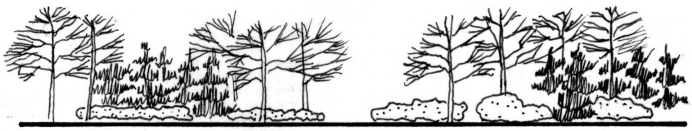
Screening in the form of a landscaped berm, greenbelt, or wall shall be required wherever a non-residential use abuts directly upon land zoned for residential purposes. Landscaped screening shall comply with the requirements in Section 6.02 E. If a wall is used instead of landscaping, the requirements in Article 7.00 shall be complied with, and a landscaped greenbelt shall be provided on the side of the wall facing the residential district.

5. Parking Lot Landscaping

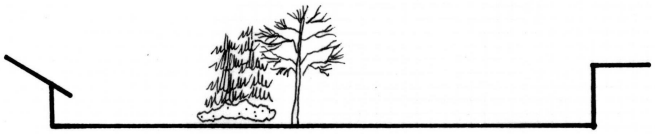
Off-street parking areas containing greater than ten (10) spaces shall comply with the requirements for parking lot landscaping in Section 6.02 F. All off-street parking areas shall be screened from adjoining residential uses by a landscape screen, berm, wall or fence. Landscaped screening shall comply with the requirements in Section 6.02 E. If a wall is used instead of landscaping, the requirements in Article 7.00 shall be complied with, and a landscaped greenbelt shall be provided on the side of the wall facing residential uses.



PLAN



ELEVATION



SECTION

Privacy Screen

Section 6.04 -- STANDARDS FOR LANDSCAPE MATERIALS

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

A. Non-Living Plant Material

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

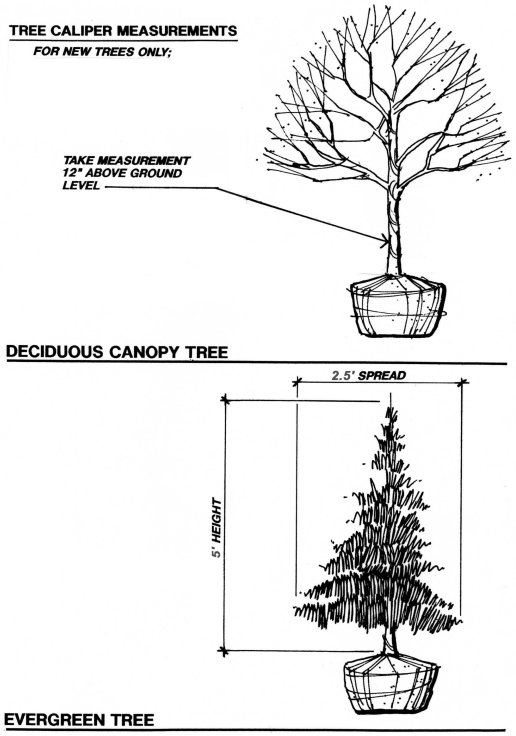
B. Plant Material Specifications

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

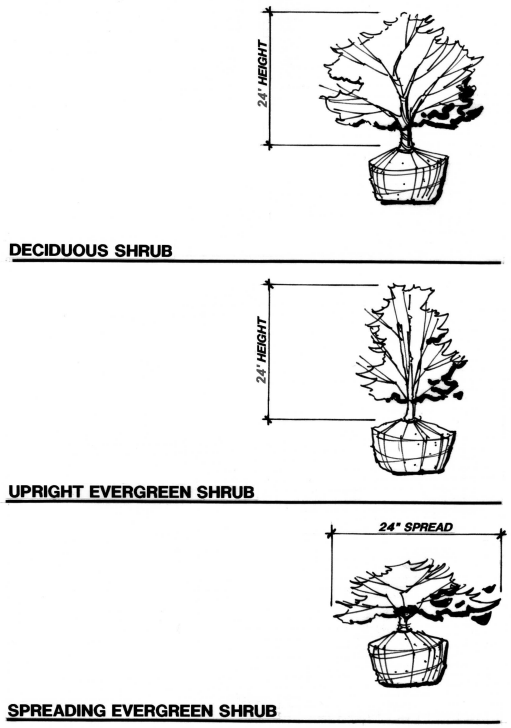
Table 6.4: SUMMARY OF PLANT MATERIAL SPECIFICATIONS[A]

Landscape Material	Minimum Caliper	Minimum Height	Minimum Spread	Minimum Length
Large Deciduous Trees	2 in.[B]	4 ft. first branch	--	--
Ornamental Trees	1 ½ in.[C]	4 ft. first branch	--	--
Evergreen Trees	--	5 ft.	2 ½ ft.	--
Shrubs	--	2 ft.	2 ft.	--
Hedges	--	2 ft.	--	--

Footnotes
A. See Section 6.04 for detailed requirements
B. Measured twelve (12) inches above grade
C. Measured six (6) inches above grade.



Minimum Plant Sizes



Minimum Plant Sizes

1. **Large Deciduous Trees**
   Deciduous shade trees shall be a minimum of two (2) inches in caliper measured twelve (12) inches above grade with the first branch a minimum of four (4) feet above grade when planted (see Table 6.4 and illustration on page 6-9).

2. **Deciduous Ornamental Trees**
   Deciduous ornamental trees shall be a minimum of one and one-half (1-1/2) inches in caliper measured six (6) inches above grade with a minimum height of four (4) feet above grade when planted (see Table 6.4 and illustration on page 6-9).

3. **Evergreen Trees**
   Evergreen trees shall be a minimum of five (5) feet in height when planted. Furthermore, evergreen trees shall have a minimum spread of two and one-half (2.5) feet, and the size of the burlapped root ball shall be at least ten (10) times the caliper measured six (6) inches above grade (see Table 6.4 and illustration on page 6-9).

4. **Shrubs**
   Shrubs shall be a minimum of two (2) feet in height when planted. Low growing shrubs shall have a minimum spread of twenty-four (24) inches when planted (see Table 6.4 and illustration on page 6-9).

5. **Hedges**
   Hedges shall be planted and maintained so as to form a continuous, unbroken, visual screen within two (2) years after planting, barring unusual growing conditions, such as drought or disease. Hedges shall be a minimum of two (2) feet in height when planted (see Table 6.4 and illustration on page 6-9).

6. **Ground Cover**
   Ground cover used in lieu of turf grasses in whole or in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one (1) complete growing season.

7. **Suggested Plant Materials**
   Table 6.5 lists suggested (not required) plant materials:

Table 6.5: SUGGESTED PLANT MATERIALS

Common Name	Genus
LARGE DECIDUOUS TREES	
Oaks	Quericus
Hard Maples (except Japanese)	Acer
Hackberry	Celtis
Planetree (Sycamore)	Platanus
Birch	Betula
Beech	Fancus
Ginkgo (male)	Ginkgo
Honeylocust (thornless cultivars)	Gleditsia
Sweetgum	Liquidambar
Hophornbeam (Ironwood)	Ostrya
Linden	Tilia

Common Name	Genus
Hickory	Carya
Hornbeam (blue beech)	Carpinus
ORNAMENTAL DECIDUOUS TREES	
Amelanchier	Amelanchier
Redbud	Cercis
Dogwood (Tree form)	Cornus
Hawthorn	Crataegus
Flowering Crabapple	Malus (disease resistant cultivars only)
Flowering Plum (Tree form)	Prunus
Flowering Pear	Pyrus
Magnolia	Magnolia
Hornbeam	Carpinus
Rose of Sharon	Hibiscus
EVERGREEN TREES	
Fir	Abies
Hemlock	Tsuga
Spruce	Picea
Pine	Pinus
Douglas Fir	Pseudotsuga
Dwarf, Globe, Pendulous species/cultivars are not permitted	
NARROW EVERGREENS	
Juniper	Juniperus
Arborvitae	Thuja
Dwarf, Globe, Pendulous species/cultivars are not permitted	
LARGE SHRUBS	
Dogwood (Shrub form)	Cornus
Cotoneaster	Cotoneaster
Forsythia	Forsythia
Mock-Orange	Philadelphus
Sumac	Rhus
Lilac	Syringa
Viburnum	Viburnum
Witchhazel	Hamamelis
Euonymus	Euonymus
Privet	Ligustrum
Ninebark	Physocarpus
Juniper (Hetz, Pfitzer, Savin)	Juniper (evergreen)
Yew (Pyramidal, Japanese)	Taxus (evergreen)
SMALL SHRUBS – DECIDUOUS	
Barberry	Berberis
Quince	Chaenomeles
Boxwood	Buxus
Cotoneaster	Cotoneaster
Euonymus	Euonymus
Forsythia	Forsythia
Hydrangea	Hydrangea

Common Name	Genus
Holly	Ilex
Privet	Ligustrum
Potentilla	Potentilla
Currant	Ribes
Lilac	Syringia
Viburnum	Viburnum
Weigela	Weigela
SMALL SHRUBS – EVERGREEN	
Fir	Abies
False Cypress	Chamaecyparis
Juniper (Low Spreading)	Juniperus
Spruce	Picea
White Pine	Pinus
Yew (Globe/Spreading/Upright)	Taxus
Arborvitae	Thuja

10. Undesirable Plant Material

Use of plant materials that cause disruption to storm drainage or that are susceptible to pests or disease is not encouraged. The following plant materials exhibit such characteristics, and therefore their use is not encouraged in the City:

Ashes
Box Elder
American Elm
Tree of Heaven
European Barberry
Poplar
Willow
Silver Maple
Ginkgo (Female)
Black Locust
Honey Locust (with Thorns)
Horse Chestnut (Nut Bearing)
Cottonwood
Mulberry

Section 6.05 -- INSTALLATION AND MAINTENANCE

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

A. Installation

Landscaping shall be installed in a sound, workmanlike manner to ensure the continued growth of healthy plant material. Trees, shrubs, hedges, and vines shall be generously mulched at the time of planting.

B. Installation of Perimeter Landscaping

Landscaping along the perimeter shall be installed prior to construction, except where such landscaping would be destroyed during construction.

C. Seeding or Sodding

Lots or parcels shall be seeded or sodded within ninety (90) days after occupancy.

D. Protection from Vehicles

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

E. Off-Season Planting Requirements

If development is completed during the off-season when plants cannot be installed, the owner shall provide a performance guarantee to ensure installation of required landscaping in the next planting season, in accordance with Section 3.14.

F. Maintenance

Landscaping required by this Ordinance shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. A healthy, neat and orderly appearance includes proper pruning, regular mowing of lawns, and removal of all litter and the replacement of dead and unhealthy plant material. All unhealthy and dead plant material shall be replaced immediately upon notice from the Building Official, unless the season is not appropriate for planting, in which case such plant material shall be replaced at the beginning of the next planting season.
All landscaped areas shall be provided with a readily available and acceptable supply of water, with at least one spigot located within three hundred (300) feet of all plant material to be established and maintained. Trees, shrubs, and other plantings and lawn areas shall be watered regularly throughout the growing season.

All constructed or manufactured landscape elements, such as but not limited to benches, retaining walls, edging, and so forth, shall be maintained in good condition and neat appearance. Rotted, deteriorated, or damaged landscape elements shall be repaired, replaced, or removed.

Section 6.06 -- TREATMENT OF EXISTING PLANT MATERIAL

The following regulations shall apply to existing plant material:

A. Consideration of Existing Elements in the Landscape Design

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

Existing hedges, berms, walls, or other landscape elements may be used to satisfy the requirements set forth previously, provided that such landscaping is in conformance with the requirements of this section.

B. Preservation of Existing Plant Material

When tree preservation credits are deserved, site plans shall show all existing trees which are located in the portions of the site that will be built upon or otherwise altered, and are five (5) inches or greater in caliper, measured twelve (12) inches above grade. A single tree credit, if deserved, shall equal one (1) of the trees required by the provisions of this Article.

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

Trees to be preserved may provide credits toward the required trees for greenbelts, buffers, and parking lot landscaping. To obtain credit, the preserved trees shall be of a high quality and at least five (5) inches in caliper measured 12 inches above grade. Trees to be preserved shall be counted for credit only if they are located on the developed portion of the site.

The credit for preserved trees shall be as follows:

Table 6.7: PRESERVED TREE CREDITS

Caliper of Preserved Tree Measured 12 Inches Above Grade	Tree Landscaping Credits 1 credit = 1 required tree
Over 12 inches	3 credits
8 inches – 12 inches	2 credits
5 inches – 7.9 inches	1 credit

In the event that healthy trees which are intended to meet the requirements of the Ordinance are cut down, damaged or destroyed during construction, the removed trees shall be replaced with the same species as the damaged or removed tree, in accordance with the schedule in Table 6.8, unless otherwise approved by the Director of Planning and Community Development based on consideration of the site and building configuration, available planting space, and similar considerations:

Table 6.8: DAMAGED OR REMOVED TREE REPLACEMENT SCHEDULE

Caliper Measured 12 Inches Above Grade		Replacement Ratio
Damaged Tree	**Replacement Tree**	
Less than 6 inches	2 ½ to 3 inches	1 for 1
More than 6 inches	2 ½ to 3 inches	1 replacement tree for each 6 inches in caliper or fraction thereof of damaged tree

Section 6.07 -- MODIFICATIONS TO LANDSCAPE REQUIREMENTS

In consideration of the overall design and impact of a specific landscape plan, and in consideration of the amount of existing plant material to be retained on the site, the specific requirements outlined herein may be modified, provided that any such adjustment is in keeping with the intent of this Article and Ordinance in general. In determining whether a modification is appropriate, the approval authority shall consider whether the following conditions exist:

1. Topographic features or other unique features of the site create conditions such that strict application of the landscape regulations would result in a less effective screen than an alternative landscape design.

2. Parking, vehicular circulation, or land use are such that required landscaping would not enhance the site or result in the desired screening effect.

3. The public benefit intended by the landscape regulations could be better-achieved with a plan that varies from the strict requirements of the Ordinance.

ARTICLE 6.00

LANDSCAPING AND SCREENING

Section 6.01 -- INTENT AND SCOPE OF REQUIREMENTS

A. Intent

Except where specifically noted, the provisions in this Article do not apply to single family and two-family residential uses. Landscaping enhances the visual image of the City, preserves natural features, improves property values, and alleviates the impact of noise, traffic, and visual distraction associated with certain uses. Screening is important to protect less intensive uses from the noise, light, traffic, litter and other impacts of more intensive, nonresidential uses. The provisions in this article are intended to set minimum standards for the design and use of landscaping, greenbelts, and screening, and for the protection and enhancement of the City's environment. More specifically, the intent of these provisions is to:

1. Improve the appearance of off-street parking areas, vehicular use areas, and property abutting public rights-of-way,

2. Protect and preserve the appearance, character, and value of the residential uses that abut non-residential areas, parking areas, and other intensive use areas, thereby protecting the public health, safety and welfare,

3. Reduce soil erosion and depletion, and

4. Increase storm water retention, thereby helping to prevent flooding.

B. Scope of Application

No site plan shall be approved unless it shows landscaping consistent with the requirements of this Article. A Certificate of Occupancy shall not be issued unless provisions set forth in this Article have been met or a performance guarantee has been posted in accordance with the provisions set forth in Section 3.14. The requirements in this Article shall not apply to single family and two-family detached homes, unless otherwise specifically noted.

C. Minimum Requirements

The requirements in this Article are minimum requirements, and under no circumstances shall they preclude the developer and the City from agreeing to more extensive landscaping.

D. Summary of Regulations

The following table summarizes the landscaping regulations contained in this Article:

Table 6.1: SUMMARY OF MINIMUM LANDSCAPING REQUIREMENTS

Required Landscaping	Planting Requirements [1]					
	Landscaping Ratio	Minimum Height	Minimum Width	Deciduous or Evergreen Trees	Ornamental Trees	Deciduous or Evergreen Shrubs
General Site Landscaping	--	--	--	1 per 3,000 sq. ft. [2]	--	--
Landscaping Adjacent to Roads	--	--	10 ft.	1 per 40 lineal ft.		8 per 40 lineal ft.
Greenbelts	--	--	10 ft.	1 per 30 lineal ft.	--	[3]
Greenbelts used for Screening	--	6 ft.	10 ft.	[4]	--	--
Berms in Front Yard	--	[5]	[5]	1 per 40 lineal ft.	1 per 100 lineal ft.	8 per 40 lineal ft.
Berms used for Screening	--	3 ft.	[5]	[4]	--	--
Parking Lot Landscaping	20 sq. ft. per space	--	5 ft. [6]	1 per 300 sq. ft.	--	1 per 75 sq. ft.

Footnotes

[1] See Sections 6.02 and 6.03 for detailed requirements.
[2] General Site Landscaping for: mobile home parks: 2 trees plus 4 shrubs per lot.
multiple family uses:2 trees plus 4 shrubs per dwelling unit.
[3] Eight (8) shrubs may be substituted for each tree.
[4] Evergreens shall be closely spaced (no further than fifteen (15) feet apart) to form complete visual barrier within three (3) years.
[5] Berms shall have slopes no steeper than one (1) foot vertical for each three (3) feet horizontal. Thus, the minimum width is equal to total height multiplied by three (3). Maximum height of berms in the front yard: three (3) feet.
[6] Minimum area of each parking lot landscaped area: two hundred (200) square feet.

Section 6.02 -- GENERAL LANDSCAPING REQUIREMENTS

A. General Site Requirements

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

1. The site shall be planted with sod, ground cover, shrubbery, or other suitable live plant material, which shall extend to any abutting street property line. Grass areas in the front yard of all non-residential uses shall be planted with sod or hydro seed (grass seed).

2. A mixture of evergreen and deciduous trees shall be planted on non-residential parcels at the rate of one (1) tree per three thousand (3,000) square feet or portion thereof of any unpaved open area for which specific landscaping requirements do not appear later in this Article. Required trees may be planted at uniform intervals, at random, or in groupings.

B. Landscaping Adjacent to Streets

1. Planting Requirements

Where required, landscaping adjacent to streets shall comply with the following planting requirements (see Landscaping Adjacent to Roads diagram):

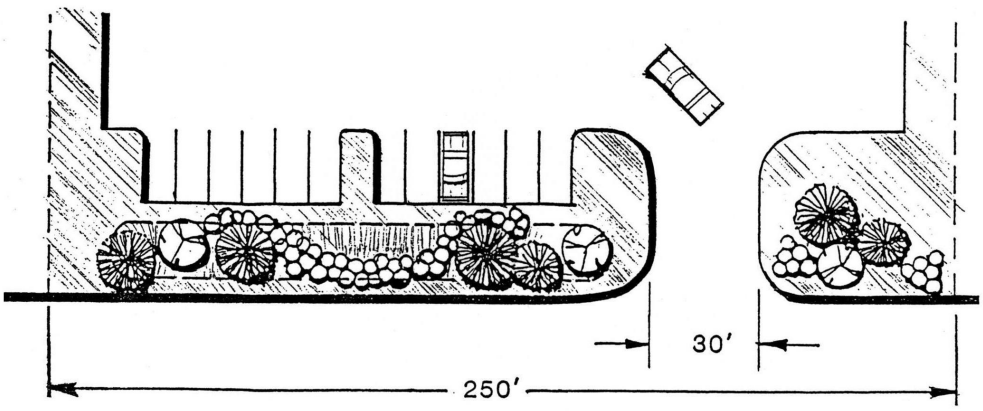
Table 6.2: LANDSCAPE MATERIAL PLANTING REQUIREMENTS

Type of Landscaping	Planting Requirements
Deciduous or Evergreen Tree	1 per 40 lineal feet of road frontage
Shrubs	8 per 40 lineal feet of road frontage

For the purposes of computing length of road frontage, openings for driveways and sidewalks shall not be counted. Trees and shrubs may be planted at uniform intervals, at random, or in groupings.

2. **Location and Dimensions**

Required landscaping adjacent to streets shall be located totally on private property within a planting strip adjacent to the street right-of-way. The minimum width of the planting strip shall be ten (10) feet. All landscaping in the clear vision areas, adjacent to driveways, shall not exceed 30 inches in height.



Landscaping Adjacent to Roads

Length of Road Frontage: 250 feet minus 30-foot driveway = 220 feet

<u>Required Number of Plants (Example)</u>

Deciduous or Evergreen Trees	220 ft./40 ft.	=	6
Shrubs	220 ft./40 ft. x 8	=	44
TOTAL			**50**

C. Berms

Where required, berms shall conform to the following standards:

1. Dimensions

Unless otherwise indicated or appropriate, required berms shall be measured from the grade of the parking lot or flat ground adjacent to the berm, and shall be constructed with slopes no steeper than one (1) foot vertical for each two (2) feet horizontal (50 percent slope), with at least a two (2) foot flat area on top. Berms may undulate in height, subject to review and approval of berm design as shown on the site plan. Unless otherwise indicated, the maximum height of required berms shall be three (3) feet.

2. Protection from Erosion

Any required berm shall be planted with sod, ground cover, or other suitable live plant material to protect it from erosion so that it retains its height and shape.

3. Required Plantings

a. Berms located in the front yard of non-residential parcels

Berms located in the front yard of non-residential parcels shall be landscaped in accordance with the requirements for Landscaping Adjacent to Roads, Section 6.02, sub-section B.

b. Berms used for screening other than in the front yard

Berms used for screening other than in the front yard shall be landscaped in accordance with the requirements for Screening, Section 6.02, sub-section E.

4. Measurement of Berm Length

For the purposed of calculating required plant material, berm length shall be measured along the exterior edge of the berm.

D. Greenbelts

Where required, greenbelts shall conform to the following standards:

1. Measurement of Greenbelt Length

For the purposes of calculating required plant material, greenbelt length shall be measured along the exterior edge of the greenbelt.

2. Dimensions

The minimum width of the greenbelt shall be ten (10) feet.

3. General Planting Requirements

a. Sod or Ground Cover Requirements

Sod, ground cover, or other suitable live plant materials shall be planted over the entire greenbelt area, except where paved walkways are used.

b. Tree and Shrub Requirements

Except where the greenbelt is used for screening, a minimum of one (1) deciduous or evergreen tree shall be planted for each thirty (30) lineal feet (or portion thereof) of required greenbelt. Alternatively, eight (8) shrubs may be substituted for each required tree. Trees and shrubs may be planted at uniform intervals, at random, or in groupings.

4. Greenbelts Used for Screening

Greenbelts used for screening shall be landscaped in accordance with the requirements for Screening, Section 6.02, sub-section E.

E. Screening

1. General Screening Requirements

Unless otherwise specified, wherever an evergreen or landscaped screen is required, screening shall consist of two rows of closely-spaced, staggered evergreen plantings (planted no more than fifteen (15) feet on-center) which can be reasonably expected to form a visual barrier that is at least six (6) feet above ground level within three (3) years of planting. A single row of evergreen screening planted ten (10) feet on center may be substituted if insufficient room exists to plant a staggered double row.

Deciduous plant materials may be used provided that a complete visual barrier shall be maintained throughout the year. Wherever screening is required adjacent to residentially zoned or used property, the screening shall be installed prior to the beginning of site grading and general construction, except where such activity would result in damage to the screening.

2. Screening of Equipment

Mechanical equipment, such as air compressors, pool pumps, transformers, sprinkler pumps, satellite dish antennae, air conditioners, and similar equipment shall be screened on all sides except those facing a building. Insofar as practical, said screening shall exceed the vertical height of the equipment being screened by at least six (6) inches. A three (3) foot open area shall be maintained around such equipment to facilitate repairs.

F. Parking Lot Landscaping

In addition to required screening, all off-street parking areas shall be landscaped as follows:

1. Landscaping Ratio

Off-street parking areas containing greater than ten (10) parking spaces shall be provided with at least twenty (20) square feet of interior landscaping per parking space. Whenever possible, parking lot landscaping shall be designed to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area.

2. Minimum Area

Landscaped areas in parking lots shall be no less than five (5) feet in any single dimension and no less than one hundred fifty (150) square feet in area. Landscaped areas in or adjacent to parking lots shall be protected with curbing or other means to prevent encroachment of vehicles. Curb cuts which permit drainage of landscaped areas may be designed as part of required curbing.

3. Other Landscaping

Required landscaping elsewhere on the parcel shall not be counted in meeting the parking lot landscaping requirements.

4. Required Plantings

Requirements for plant material shall be based on the location, size, and shape of the parking lot landscaped area. A minimum of one (1) shrub shall be planted per seventy-five (75) square feet or fraction thereof of interior parking lot landscaping, and one (1) tree shall be planted per three hundred (300) square feet or fraction thereof of interior landscaped area. At least fifty percent (50%) of each interior landscaped area shall be covered by living plant material, such as sod, shrubs, ground cover, or trees. Plantings within parking lots shall comply with the requirements for unobstructed sight distance set forth in Section 3.09.A(5). The landscape plan shall indicate the types, sizes, and quantities of plant material proposed for such area.

H. Maintenance of Unobstructed Visibility For Drivers

All landscaping shall comply with the provisions concerning Unobstructed Sight Distance set forth in Section 3.09.A(5).

I. Landscaping of Divider Medians and Cul-de-Sacs

Where traffic on driveways, maneuvering lanes, private roads, or similar vehicle access ways is separated by a divider median, the median shall be curbed and have a minimum width of ten (10) feet. A minimum of one (1) deciduous or evergreen tree shall be planted for each thirty (30) lineal feet or portion thereof of median. Trees may be planted at uniform intervals, at random, or in groupings, but in no instance shall the center-to-center distance between trees exceed sixty (60) feet. Curb cuts which permit drainage of landscaped areas may be designed as part of required curbing.

Cul-de-sacs and site entrances shall be landscaped with species tolerant of roadside conditions in Midland County.

J. Irrigation

The site plan shall indicate the proposed method of watering landscaped areas. Although not required, installation of an in-ground irrigation/sprinkler system is encouraged, particularly in front yards. Irrigation systems should be designed to prevent impervious surfaces.

Section 6.03 -- SPECIFIC LANDSCAPING REQUIREMENTS FOR ZONING DISTRICTS

A. Requirements for Commercial, Office, Community, Agricultural, and Industrial Districts

All lots or parcels located in commercial, office, community, agricultural, and industrial zoning districts shall comply with the following landscaping requirements:

1. **General Site Landscaping**
   All developed portions of the site shall conform to the General Site Requirements in Section 6.02, sub-section A, except where specific landscape elements are required.

2. **Landscaping Adjacent to Street**
   All commercial, office, and industrial developments shall comply with the requirements for landscaping adjacent to the street in Section 6.02, sub-section B.

3. **Berm Requirements**
   A berm may be used to screen off-street parking from view of the street, in which case the berm shall be a maximum of three (3) feet in height, and shall be planted in accordance with Section 6.02, sub-section B. The berm shall be located totally on private property, adjacent to the street right-of-way.

4. **Screening**
   Screening in the form of a landscaped berm or greenbelt shall be required wherever a non-residential use in a commercial, office, or industrial district abuts or is directly across the street from land zoned for residential purposes, and where loading areas would be visible from residential districts. Landscaped screening shall comply with the requirements in Section 6.02, sub-section E. If the length of the adjoining residentially zoned property is less than two hundred (200) feet, a wall or solid fence with a planting strip a minimum of three (3) feet in width may be erected in lieu of a berm or greenbelt.

The landscaping in the planting strip shall consist of appropriate landscaping material and be arranged to provide a maximum opacity to a minimum height of four (4) feet within three (3) years.

If a wall or fence is used instead of landscaping, the requirements in Article 7.00 shall be complied with, but a landscaped greenbelt shall be required on the side of the wall facing the residential district.

5. Parking Lot Landscaping

Off-street parking areas containing greater than ten (10) spaces shall comply with the requirements for parking lot landscaping in Section 6.02, sub-section F. Off-street parking areas containing five (5) or more parking spaces shall be screened on those sides which abut or are across the street from a residential zoning district. A landscape screen, berm, wall or fence may be used. Landscaped screening shall comply with the requirements in Section 6.02, sub-section E. If a wall or fence is used instead of landscaping, the requirements in Article 7.00 shall be complied with, but a landscaped greenbelt shall be required on the side of the wall facing the residential district.

B. Requirements for Multiple Family Developments

All lots or parcels of land used for multiple family developments shall comply with the following landscaping requirements:

1. General Site Landscaping

A minimum of two (2) deciduous or evergreen trees plus four (4) shrubs shall be planted per dwelling unit. Unless otherwise specified, required landscaping elsewhere in the multiple family developments shall not be counted in meeting these requirements for trees.

2. Landscaping Adjacent to Street

All multiple family developments shall comply with the requirements for landscaping adjacent to the street in Section 6.02 B.

3. Parking Lot Landscaping

Off-street parking areas in the front or side yard shall be screened with a hedge not less than three (3) feet in height or more than four (4) feet in height. Hedges shall comply with specifications for maintenance of unobstructed sight distance for drivers (Section 3.09.A(5)). Off-street parking areas containing greater than ten (10) spaces shall comply with the requirements for parking lot landscaping in Section 6.02 F.

4. Privacy Screen

Where multiple family dwellings are designed so that rear open areas or patio areas front onto a public street, a landscaped privacy screen shall be provided (see illustration on page 6-8). The screen may consist of a combination of trees, shrubs, and berms.

C. Requirements for Non-Residential Uses in Residential Districts

All non-residential uses located in residential zoning districts shall comply with the following landscaping requirements:

1. General Site Landscaping

All developed portions of the site shall conform to the General Site Requirements in Section 6.02 A, except where specific landscape elements are required.

2. Landscaping Adjacent to Street

All non-residential developments located in residential districts shall comply with the requirements for landscaping adjacent to the street in Section 6.02 B.

3. Berm Requirements

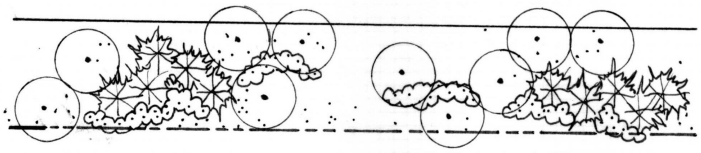
A berm may be used to screen off-street parking from view of the street, in which case the berm shall be a maximum of three (3) feet in height, and shall be planted in accordance with Section 6.02 B. The berm shall be located totally on private property, adjacent to the road right-of-way.

4. Screening

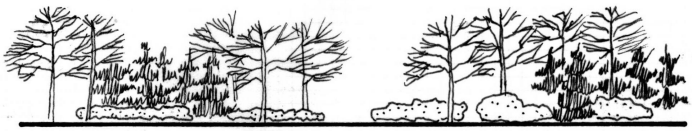
Screening in the form of a landscaped berm, greenbelt, or wall shall be required wherever a non-residential use abuts directly upon land zoned for residential purposes. Landscaped screening shall comply with the requirements in Section 6.02 E. If a wall is used instead of landscaping, the requirements in Article 7.00 shall be complied with, and a landscaped greenbelt shall be provided on the side of the wall facing the residential district.

5. Parking Lot Landscaping

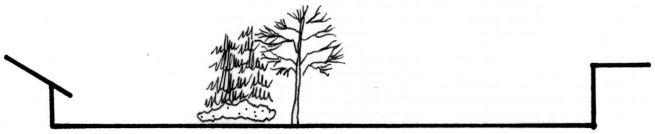
Off-street parking areas containing greater than ten (10) spaces shall comply with the requirements for parking lot landscaping in Section 6.02 F. All off-street parking areas shall be screened from adjoining residential uses by a landscape screen, berm, wall or fence. Landscaped screening shall comply with the requirements in Section 6.02 E. If a wall is used instead of landscaping, the requirements in Article 7.00 shall be complied with, and a landscaped greenbelt shall be provided on the side of the wall facing residential uses.



PLAN



ELEVATION



SECTION

Privacy Screen

Section 6.04 -- STANDARDS FOR LANDSCAPE MATERIALS

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

A. Non-Living Plant Material

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

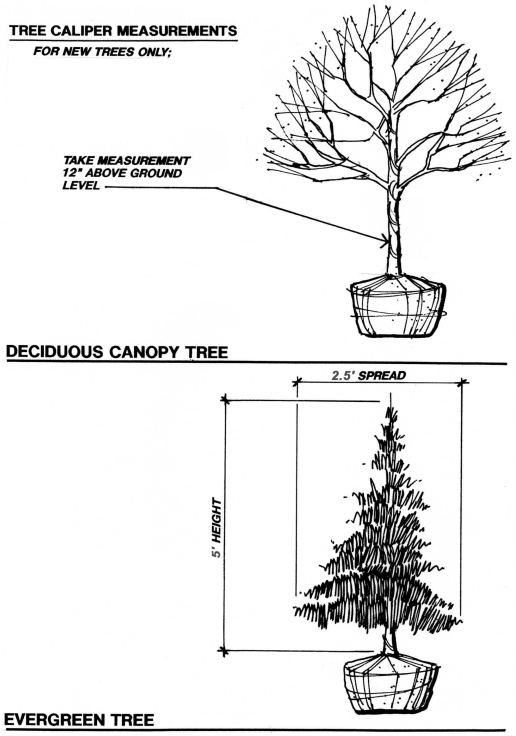
B. Plant Material Specifications

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

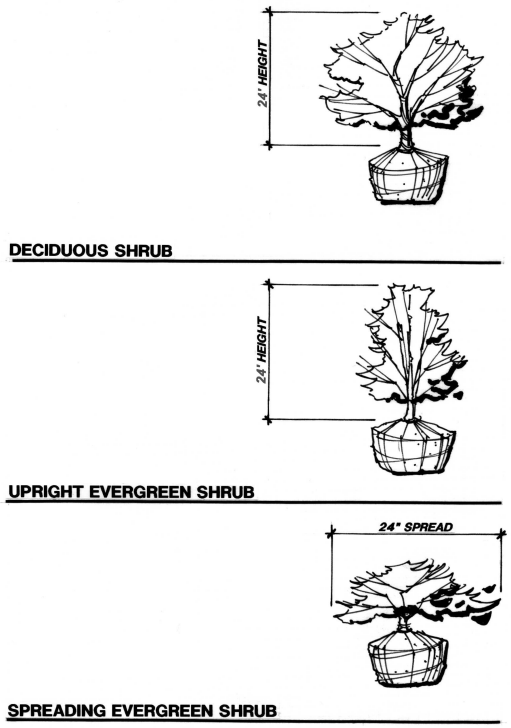
Table 6.4: SUMMARY OF PLANT MATERIAL SPECIFICATIONS[A]

Landscape Material	Minimum Caliper	Minimum Height	Minimum Spread	Minimum Length
Large Deciduous Trees	2 in.[B]	4 ft. first branch	--	--
Ornamental Trees	1 ½ in.[C]	4 ft. first branch	--	--
Evergreen Trees	--	5 ft.	2 ½ ft.	--
Shrubs	--	2 ft.	2 ft.	--
Hedges	--	2 ft.	--	--

Footnotes
A. See Section 6.04 for detailed requirements
B. Measured twelve (12) inches above grade
C. Measured six (6) inches above grade.



Minimum Plant Sizes



Minimum Plant Sizes

1. **Large Deciduous Trees**
   Deciduous shade trees shall be a minimum of two (2) inches in caliper measured twelve (12) inches above grade with the first branch a minimum of four (4) feet above grade when planted (see Table 6.4 and illustration on page 6-9).

2. **Deciduous Ornamental Trees**
   Deciduous ornamental trees shall be a minimum of one and one-half (1-1/2) inches in caliper measured six (6) inches above grade with a minimum height of four (4) feet above grade when planted (see Table 6.4 and illustration on page 6-9).

3. **Evergreen Trees**
   Evergreen trees shall be a minimum of five (5) feet in height when planted. Furthermore, evergreen trees shall have a minimum spread of two and one-half (2.5) feet, and the size of the burlapped root ball shall be at least ten (10) times the caliper measured six (6) inches above grade (see Table 6.4 and illustration on page 6-9).

4. **Shrubs**
   Shrubs shall be a minimum of two (2) feet in height when planted. Low growing shrubs shall have a minimum spread of twenty-four (24) inches when planted (see Table 6.4 and illustration on page 6-9).

5. **Hedges**
   Hedges shall be planted and maintained so as to form a continuous, unbroken, visual screen within two (2) years after planting, barring unusual growing conditions, such as drought or disease. Hedges shall be a minimum of two (2) feet in height when planted (see Table 6.4 and illustration on page 6-9).

6. **Ground Cover**
   Ground cover used in lieu of turf grasses in whole or in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one (1) complete growing season.

7. **Suggested Plant Materials**
   Table 6.5 lists suggested (not required) plant materials:

Table 6.5: SUGGESTED PLANT MATERIALS

Common Name	Genus
LARGE DECIDUOUS TREES	
Oaks	Quericus
Hard Maples (except Japanese)	Acer
Hackberry	Celtis
Planetree (Sycamore)	Platanus
Birch	Betula
Beech	Fancus
Ginkgo (male)	Ginkgo
Honeylocust (thornless cultivars)	Gleditsia
Sweetgum	Liquidambar
Hophornbeam (Ironwood)	Ostrya
Linden	Tilia

Common Name	Genus
Hickory	Carya
Hornbeam (blue beech)	Carpinus
ORNAMENTAL DECIDUOUS TREES	
Amelanchier	Amelanchier
Redbud	Cercis
Dogwood (Tree form)	Cornus
Hawthorn	Crataegus
Flowering Crabapple	Malus (disease resistant cultivars only)
Flowering Plum (Tree form)	Prunus
Flowering Pear	Pyrus
Magnolia	Magnolia
Hornbeam	Carpinus
Rose of Sharon	Hibiscus
EVERGREEN TREES	
Fir	Abies
Hemlock	Tsuga
Spruce	Picea
Pine	Pinus
Douglas Fir	Pseudotsuga
Dwarf, Globe, Pendulous species/cultivars are not permitted	
NARROW EVERGREENS	
Juniper	Juniperus
Arborvitae	Thuja
Dwarf, Globe, Pendulous species/cultivars are not permitted	
LARGE SHRUBS	
Dogwood (Shrub form)	Cornus
Cotoneaster	Cotoneaster
Forsythia	Forsythia
Mock-Orange	Philadelphus
Sumac	Rhus
Lilac	Syringa
Viburnum	Viburnum
Witchhazel	Hamamelis
Euonymus	Euonymus
Privet	Ligustrum
Ninebark	Physocarpus
Juniper (Hetz, Pfitzer, Savin)	Juniper (evergreen)
Yew (Pyramidal, Japanese)	Taxus (evergreen)
SMALL SHRUBS – DECIDUOUS	
Barberry	Berberis
Quince	Chaenomeles
Boxwood	Buxus
Cotoneaster	Cotoneaster
Euonymus	Euonymus
Forsythia	Forsythia
Hydrangea	Hydrangea

Common Name	Genus
Holly	Ilex
Privet	Ligustrum
Potentilla	Potentilla
Currant	Ribes
Lilac	Syringia
Viburnum	Viburnum
Weigela	Weigela
SMALL SHRUBS – EVERGREEN	
Fir	Abies
False Cypress	Chamaecyparis
Juniper (Low Spreading)	Juniperus
Spruce	Picea
White Pine	Pinus
Yew (Globe/Spreading/Upright)	Taxus
Arborvitae	Thuja

10. Undesirable Plant Material

Use of plant materials that cause disruption to storm drainage or that are susceptible to pests or disease is not encouraged. The following plant materials exhibit such characteristics, and therefore their use is not encouraged in the City:

Ashes
Box Elder
American Elm
Tree of Heaven
European Barberry
Poplar
Willow
Silver Maple
Ginkgo (Female)
Black Locust
Honey Locust (with Thorns)
Horse Chestnut (Nut Bearing)
Cottonwood
Mulberry

Section 6.05 -- INSTALLATION AND MAINTENANCE

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

A. Installation

Landscaping shall be installed in a sound, workmanlike manner to ensure the continued growth of healthy plant material. Trees, shrubs, hedges, and vines shall be generously mulched at the time of planting.

B. Installation of Perimeter Landscaping

Landscaping along the perimeter shall be installed prior to construction, except where such landscaping would be destroyed during construction.

C. Seeding or Sodding

Lots or parcels shall be seeded or sodded within ninety (90) days after occupancy.

D. Protection from Vehicles

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

E. Off-Season Planting Requirements

If development is completed during the off-season when plants cannot be installed, the owner shall provide a performance guarantee to ensure installation of required landscaping in the next planting season, in accordance with Section 3.14.

F. Maintenance

Landscaping required by this Ordinance shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. A healthy, neat and orderly appearance includes proper pruning, regular mowing of lawns, and removal of all litter and the replacement of dead and unhealthy plant material. All unhealthy and dead plant material shall be replaced immediately upon notice from the Building Official, unless the season is not appropriate for planting, in which case such plant material shall be replaced at the beginning of the next planting season.
All landscaped areas shall be provided with a readily available and acceptable supply of water, with at least one spigot located within three hundred (300) feet of all plant material to be established and maintained. Trees, shrubs, and other plantings and lawn areas shall be watered regularly throughout the growing season.

All constructed or manufactured landscape elements, such as but not limited to benches, retaining walls, edging, and so forth, shall be maintained in good condition and neat appearance. Rotted, deteriorated, or damaged landscape elements shall be repaired, replaced, or removed.

Section 6.06 -- TREATMENT OF EXISTING PLANT MATERIAL

The following regulations shall apply to existing plant material:

A. Consideration of Existing Elements in the Landscape Design

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

Existing hedges, berms, walls, or other landscape elements may be used to satisfy the requirements set forth previously, provided that such landscaping is in conformance with the requirements of this section.

B. Preservation of Existing Plant Material

When tree preservation credits are deserved, site plans shall show all existing trees which are located in the portions of the site that will be built upon or otherwise altered, and are five (5) inches or greater in caliper, measured twelve (12) inches above grade. A single tree credit, if deserved, shall equal one (1) of the trees required by the provisions of this Article.

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

Trees to be preserved may provide credits toward the required trees for greenbelts, buffers, and parking lot landscaping. To obtain credit, the preserved trees shall be of a high quality and at least five (5) inches in caliper measured 12 inches above grade. Trees to be preserved shall be counted for credit only if they are located on the developed portion of the site.

The credit for preserved trees shall be as follows:

Table 6.7: PRESERVED TREE CREDITS

Caliper of Preserved Tree Measured 12 Inches Above Grade	Tree Landscaping Credits 1 credit = 1 required tree
Over 12 inches	3 credits
8 inches – 12 inches	2 credits
5 inches – 7.9 inches	1 credit

In the event that healthy trees which are intended to meet the requirements of the Ordinance are cut down, damaged or destroyed during construction, the removed trees shall be replaced with the same species as the damaged or removed tree, in accordance with the schedule in Table 6.8, unless otherwise approved by the Director of Planning and Community Development based on consideration of the site and building configuration, available planting space, and similar considerations:

Table 6.8: DAMAGED OR REMOVED TREE REPLACEMENT SCHEDULE

Caliper Measured 12 Inches Above Grade		Replacement Ratio
Damaged Tree	**Replacement Tree**	
Less than 6 inches	2 ½ to 3 inches	1 for 1
More than 6 inches	2 ½ to 3 inches	1 replacement tree for each 6 inches in caliper or fraction thereof of damaged tree

Section 6.07 -- MODIFICATIONS TO LANDSCAPE REQUIREMENTS

In consideration of the overall design and impact of a specific landscape plan, and in consideration of the amount of existing plant material to be retained on the site, the specific requirements outlined herein may be modified, provided that any such adjustment is in keeping with the intent of this Article and Ordinance in general. In determining whether a modification is appropriate, the approval authority shall consider whether the following conditions exist:

1. Topographic features or other unique features of the site create conditions such that strict application of the landscape regulations would result in a less effective screen than an alternative landscape design.

2. Parking, vehicular circulation, or land use are such that required landscaping would not enhance the site or result in the desired screening effect.

3. The public benefit intended by the landscape regulations could be better-achieved with a plan that varies from the strict requirements of the Ordinance.

ARTICLE 7.00

WALLS AND FENCES

Section 7.01 -- GENERAL FENCE AND WALL STANDARDS

A. Permit

The erection, construction or alteration of any fence or wall up to six (6) feet in height shall require a permit issued by the Building Department, subject to compliance with the provisions of this Ordinance. The erection, construction or alteration of any fence or wall taller than six (6) feet in height shall require a building permit issued by the Building Department, subject to compliance with the provisions of this Ordinance and the City Building Code. Construction details for any wall or fence taller than six (6) feet shall be submitted to the Building Department for evaluation with the permit application.

B. Corner Clearance

Walls and fences shall comply with the specifications for maintenance of Unobstructed Sight Distance for drivers, Section 3.09.A(5).

C. Wall, Fence and Gate Materials

Walls shall be constructed of masonry material that is architecturally compatible with the materials used on the facade of the principal structure on the site, such as face brick, decorative block, or poured concrete with simulated brick or stone patterns.

Fences shall consist of materials commonly used in conventional fence construction, such as wood, metal, or vinyl. Barbed wire, razor wire or other similar security wires or materials which could easily cause injury to persons shall not be permitted. Fences that carry electric current or any fence, guard wall, or other protection upon which any spike, nail, or pointed instrument of any kind is fixed, attached or placed shall not be permitted. Barbed wire may be permitted in industrial districts, provided that the barbed wire is used only at the top of the fence and extending over the property enclosed and not over adjacent properties. The Planning Director may waive this requirement or alter the permitted material where deemed necessary.

D. Finished Appearance

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

Section 7.02 -- OBSCURING WALLS AND FENCES

Where permitted or if specifically required by this Ordinance, obscuring walls and fences shall be subject to the requirements in this Section. An obscuring wall or fence has more than fifty (50%) percent of the vertical surface opaque so as to obstruct vision or prevent observation of activities enclosed in the fence.

A. Materials

All obscuring walls shall be constructed of a solid, opaque masonry material. Surface areas of any obscuring wall facing a residentially zoned district shall be constructed of brick, decorative block or similar material that is compatible with the principal buildings in the residential district. All masonry obscuring walls shall be erected on a concrete foundation approved by the Building Official. Solid fences shall be constructed of wood, vinyl, or post.

B. Location

Required obscuring walls and fences shall be placed inside and adjacent to the lot line except where underground utilities interfere with placement of the wall at the property line, in which case the wall shall be placed on the utility easement line located nearest the property line. All walls and fences shall comply with the specifications for maintenance of unobstructed sight distance for drivers in Section 3.09.A(5).

C. Time of Construction

Wherever construction of an obscuring wall or fence is required adjacent to residentially zoned or used property, the wall or fence shall be installed prior to the beginning of site grading and general construction, except where such activity would result in damage to the wall or fence, in which case the wall or fence shall be constructed as soon as feasible after construction commences. Completion of a required obscuring fence or wall shall be required for the issuance of a Certificate of Occupancy.

D. Obscuring Wall Required

For the following uses and districts, an obscuring wall or fence shall be provided along property lines that abut a lot in a residential district or a lot that is used for residential purposes: Commercial Districts (except D and Circle), Industrial and LCMR Districts, Community District, off-street parking, utility buildings and substations, and lots adjacent to freeways.

E. Wall or Fence Height

The height of the wall or fence shall be measured from the average of the natural grade at a distance from 5 feet from each side of the wall or fence. Fill or berms shall not be permitted for the purpose of achieving a higher fence than otherwise would be permitted.

When an obscuring wall or fence is required, the wall or fence height shall meet the requirements in Table 7.1.

Table 7.1: REQUIRED OBSCURING WALL OR FENCE HEIGHT

Location, Use or Zone	Maximum Height from Grade[a].	Comments
Required front or required side street yard setback	4 feet	
Double frontage lots	6 feet	One side of the lot, for purposes of fence placement, may be designated as the rear yard to erect a 6 foot tall fence, so long as it adheres to the general appearance of the neighborhood, does not obstruct clear vision and is not on a corner lot.
Off-Street Parking	6 feet	
Agricultural District	6 feet	8 foot maximum height for non-residential uses. Construction details required for fences taller than 6 feet (see Section 7.01.A).
Residential District	6 feet	May not exceed 4 feet in any **required** front yard. The front yard extends from the front property line to the front face of the principal structure.
Commercial, Office, Downtown, or Circle District	6 feet	Construction details required for fences taller than 6 feet (see Section 7.01.A).

Location, Use or Zone	Maximum Height from Grade[a.]	Comments
Industrial or LCMR district	8 feet	Construction details required for fences taller than 6 feet (see Section 7.01.A).
Community District [b.]	8 feet	Construction details required for fences taller than 6 feet (see Section 7.01.A).
Utility Buildings, Substations	8 feet	Construction details required for fences taller than 6 feet (see Section 7.01.A).
Schools and Parks [b.]	6 feet	8 foot maximum height for chain link Construction details required for fences taller than 6 feet (see Section 7.01.A)
Lot lines adjacent to an expressway	12 feet	Construction details required for fences taller than 6 feet (see Section 7.01.A)

a. When a berm is built in combination with a fence or wall, the total height of the berm and fence or wall shall not exceed the maximum height set out in this table.

b. The Planning Director shall have the discretion to permit fences over 8' to serve institutional or recreational uses or meet safety considerations.

F. Substitution or Waiver

1. As a substitute for a required obscuring wall or fence, the use of existing or proposed living or man-made landscape features (such as closely spaced evergreens) that would produce substantially the same results in terms of screening, durability, and permanence may be approved. Any such substitute screening shall comply with the applicable requirements in Section 6.02.
2. When determined necessary and appropriate by the City Council in the course of reviewing and approving a site plan, fences or walls exceeding requirements listed in Table 7.1 may be approved when such fences or walls are used as screening devices on property in non-residential districts from property in residential districts.

G. Non-Required Fences in Districts

Fences, other than required obscuring walls and fences, shall be permitted in the Office Service, Commercial, Community and LCMR districts, subject to the following conditions:

1. Non-required fences are permitted in the side and rear yards only.
2. The height of a fence shall be measured from the surrounding grade at every point along the fence line. All fences in non-residential districts shall not exceed the height specified in Table 7.1.

Section 7.03 -- FENCES IN RESIDENTIAL DISTRICTS

Fences in Residential Districts may be located in the front, side or rear yard subject to the following requirements:

A. Height

All fences shall not exceed six (6) feet in height above grade except for the following:

1. Fences located in required front or required side street yards shall not exceed four (4') feet in height above grade.

2.
3. 3. Fences along a lot line adjacent to an expressway may be twelve (12) feet in height. Construction details for any wall or fence taller than six (6) feet shall be submitted to the Building Department for evaluation with the permit application.

4. The Planning Director shall have the discretion to permit the repair or replacement of fences up to 6' in the required street side yard.

B. Temporary Fences

1. Temporary fences not associated with construction are prohibited.

Section 7.04 -- ~~WALLS IN~~ RESIDENTIAL DISTRICTS C.

Walls in Residential Districts

Walls shall be permitted in residential districts, subject to the following requirements:

1. General Standards

The maximum wall height shall not exceed six (6) feet, measured from ground level adjacent to the wall. Fill or berms shall not be permitted for the purpose of achieving a higher wall than otherwise would be permitted. When a wall and a berm are built in combination, the total height shall not exceed six (6) feet in height above grade.

2. Walls in Front and Side Street Yards

Walls in front yards and required side street yards shall not exceed four (4') feet in height above grade.

Section 7.05 – ~~ENTRANCEWAY STRUCTURES~~

D. Entranceway Structures

1. Entrance to Residential Developments

Residential development entranceway structures, such as walls or columns which mark the entrance to a single family subdivision, condominium, or multiple family development, shall be permitted in the required setback area, provided that:

a. Entranceway structures shall not exceed eight (8') feet in height and sixty-four (64) square feet in size.

b. Entranceway structures shall not be located in the street right-of-way or private street easement.

c. Approval of the Building Official and issuance of a building permit shall be required prior to construction.

d. Such structures shall not restrict emergency vehicle access.

2. Entrances to Individual Residential Parcels

Residential entranceway structures, such as walls, columns or gates shall be permitted to mark the entrance to individual single family residential parcels.

ARTICLE 8.00

SIGNS

Section 8.01 -- PURPOSE

The purpose of these sign regulations is to establish requirements for signs and other displays that are needed for identification or advertising, subject to the following objectives:

1. **Safety.** The requirements with regard to placement, installation, maintenance, size and location of signs are intended to minimize distractions to motorists, maintain unobstructed vision for motorists, protect pedestrians, and otherwise minimize any threat to public health or safety.

2. **Aesthetics.** Signs should enhance the aesthetic appeal of the City. Thus, these regulations are intended to: 1) regulate signs that are out-of-scale with surrounding buildings and structures, 2) prevent an excessive accumulation of signs, and 3) encourage signs that enhance the appearance and value of the business districts.

3. **Equal protection and fairness.** These regulations are designed to be fair to each property owner by establishing uniform standards that provide adequate exposure to the public for all property owners.

4. **Land use planning objectives.** The placement and design of signs should further the land use planning objectives of the City, and protect neighborhood character and the value of surrounding properties.

Section 8.02 -- SCOPE OF REQUIREMENTS

No sign may be erected, relocated, enlarged, structurally changed, painted, or altered in the City unless in conformance with the standards and procedures set forth in this Article, including the issuance of a permit except as otherwise provided herein.

Section 8.03 -- ENFORCEMENT

A. Plans, Specifications, and Permits

1. **Permits**
   It shall be unlawful for any person to erect, alter, relocate, enlarge, or structurally change a sign or other advertising structure, unless specifically exempted by these regulations, without first obtaining a permit in accordance with the provisions set forth herein. A permit shall require payment of a fee, as established in Section 21.29 of the Code of Ordinances of the City of Midland.

2. **Applications**
   Application for a sign permit shall be made upon forms provided by the Building Department. The following information shall be required:

   a. Name, address, and telephone number of the applicant.

   b. Location of the building, structure, or lot on which the sign is to be attached or erected.

   c. Position of the sign in relation to nearby buildings, structures, and property lines.

d. Plans and specifications showing the dimensions, materials, method of construction, and attachment to the building or in the ground.

e. Copies of stress sheets and calculations, as required by the Building Code.

f. Name and address of the person, firm, or corporation owning, erecting, and/or maintaining the sign.

g. Location and square footage areas of all existing signs on the same premises.

h. Information concerning required electrical connections.

i. Insurance policy or bond, as required in this Article.

j. Written consent of the owner and/or lessee of the premises upon which the sign is to be erected.

k. Other information required by the Building Official to make the determination that the sign is in compliance with all applicable laws and regulations.

3. **Review of Application**

a. Planning Commission Review
Sign proposals submitted in conjunction with the proposed construction of a new building or addition to an existing building that requires review by the Planning Commission shall be shown on the site plan.

b. Building Official Review
The Building Official shall review the sign permit application for any proposed sign.

c. Issuance of a Permit
A sign permit shall be approved if the application meets all of the standards of this Article or if a variance has been granted for the sign. Following review and approval of a sign application, the Building Official shall have the authority to issue a sign permit. A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of sixty (60) days after the date of the permit.

4. **Exceptions**
A new permit shall not be required for ordinary servicing, sign face replacement, repainting of an existing sign message, cleaning of a sign, or changing of the message on the sign where the sign is designed for such changes (such as lettering on a marquee). Furthermore, a permit shall not be required for certain exempt signs listed in Section 8.05, sub-section A. However, an electrical permit shall be required for all signs that make use of electricity.

B. Inspection and Maintenance

1. **Inspection of New Signs**
All signs for which a permit has been issued shall be inspected by the Building Official when erected. Approval shall be granted only if the sign has been constructed in compliance with the approved plans and applicable Zoning Ordinance and Building Code standards.

All signs requiring permits under this Ordinance shall have affixed to them an identification tag as provided by the sign contractor. Said identification tag will be affixed by the City to indicate compliance with the provisions of this Article. It shall be the responsibility of the

owner of a sign to see that said identification tag is replaced, should it be removed for any reason.

In cases where fastenings or anchorages are to be eventually bricked in or otherwise enclosed, the sign erector shall advise the Building Official when such fastenings are to be installed so that inspection may be completed before enclosure.

2. **Inspection of Existing Signs**
   The Building Official shall have the authority to routinely enter onto property to inspect existing signs.

3. **Maintenance**
   All signs shall be maintained at all times in a safe and secure manner. Exposed surfaces shall be cleaned and painted as necessary. Broken and defective parts shall be repaired or replaced.

4. **Correction of Violations**

   a. If the Building Official finds that any sign is in violation of this ordinance, the official shall notify one or more of the responsible persons to correct the violations by repair, removal or other action, within a timetable established by the official.

   b. The notice provided in Subsection (a) may be accompanied or followed by a written order, sent to the responsible persons, requiring correction of violations by repair, removal or other action within thirty (30) days. Where there is imminent danger to public safety, immediate removal or action may be required.

   c. For purposes of this Section, responsible persons include the owner(s) of the building, structure or premises upon which the sign is located.

C. Removal of Obsolete Signs

Any sign that identifies a business that is no longer in operation, or that identifies an activity or event that has already occurred, or a product that is no longer made, shall be considered abandoned and shall be removed by the owner, agent, or person having use of the building or structure. Upon vacating a commercial or industrial establishment, the proprietor shall be responsible for removal of all signs used in conjunction with the business.

However, where a conforming sign structure and frame are typically reused by a current occupant in a leased or rented building, the building owner shall not be required to remove the sign structure and frame in the interim periods when the building is not occupied, provided that the sign structure and frame are maintained in good condition.

D. Nonconforming Signs

No nonconforming sign shall be altered, enlarged or reconstructed, unless the alteration or reconstruction is in compliance with Article 4.00 of the Zoning Ordinance, and the following regulations:

1. **Repairs and Maintenance**
   Normal maintenance shall be permitted, provided that any nonconforming sign that is destroyed by any means to an extent greater than fifty percent (50%) of the sign's pre-catastrophe fair market value, exclusive of the foundation, shall not be reconstructed. Normal maintenance shall include painting of chipped or faded signs; replacement of faded or damaged surface panels; or, repair or replacement of electrical wiring or electrical devices.

2. **Nonconforming Changeable Copy Signs**

The sign face or message on a nonconforming changeable copy sign or nonconforming bulletin board sign may be changed provided that the change does not create any greater nonconformity.

3. **Substitution**
   No nonconforming sign shall be replaced with another nonconforming sign. However, the panel containing the message may be replaced with a different message without affecting the legal nonconforming status of a sign, provided that the sign structure or frame is not altered.

E. Appeal to the Zoning Board of Appeals

Any party who has been refused a sign permit for a proposed sign or received a correction or removal order for an existing sign may file an appeal with the Zoning Board of Appeals, in accordance with Article 29.00 of the Zoning Ordinance.

F. Enforcement

Placards, posters, circulars, showbills, handbills, election signs, cards, leaflets or other advertising matter, except as otherwise provided herein, shall not be posted, pasted, nailed, placed, printed, stamped or in any way attached to any fence, wall, post, tree, sidewalk, pavement, platform, pole, tower, curbstone or surface in or upon any public easement, right-of-way or on any public property whatsoever. Nothing herein shall prevent official notices of the City, school districts, County, State or Federal Government from being posted on any public property deemed necessary.

All placards, posters, circulars, showbills, handbills, election signs, cards, leaflets or other advertising matter posted, pasted, nailed, placed, printed, stamped on any right-of-way or public property may be removed and disposed of by City enforcement officials without regard to other provisions of this Ordinance.

Section 8.04 -- GENERAL PROVISIONS

A. Permitted Exempt Signs

A sign permit shall not be required for the following signs, which shall be permitted subject to applicable provisions herein:

1. Address numbers in compliance with Section 304.3 of the International Property Maintenance Code.

2. Nameplates identifying the occupants of the building, not to exceed two (2) square feet.

3. Public signs, including the authorized signs of a government body or public utility, including traffic signs, legal notices, railroad crossing signs, warnings of a hazard, and similar signs.

4. Flags bearing the official design of a nation, state, municipality, educational institution, or noncommercial organization.

5. Incidental signs, including home occupations complying with this ordinance, provided that total of all such signs shall not exceed two (2) square feet.

6. Portable real estate "open house" signs with an area no greater than three (3) square feet.

7. Real Estate signs, subject to the requirements in Section 8.05.

8. Construction signs, subject to the requirements in Section 8.05.
9. Plaques or signs designating a building as a historic structure, names of public and quasi-public buildings, churches, schools, dates of erection, monumental citations, commemorative tablets, and the like.

10. "No Trespassing," "No Hunting," and "No Dumping" signs, provided that no individual sign is greater than four (4) square feet in area.

11. Signs used to direct vehicular or pedestrian traffic to parking areas, loading areas, or to certain buildings or locations on the site, subject to the following conditions:

    a. Directional signs shall not contain logos or other forms of advertising.

    b. Individual directional signs shall not exceed six (6) square feet in area.

    c. Directional signs may be located in any required setback area, but may not be located in a right-of-way.

    d. Any sign not visible off the property.

12. Window signs.

13. Changing of advertising copy or message on an approved painted or printed sign or billboard or on a theatre marquee and similar approved signs which are specifically designed for the use of replaceable copy.

14. Painting, repainting, cleaning and other normal maintenance and repair of a sign or sign structure unless a structural change is made.

B. Prohibited Signs

The following signs are prohibited in all districts:

1. Any sign not expressly permitted.

2. Signs that incorporate flashing or moving lights or screens capable of displaying moving images that flash or move or otherwise change at intervals of less than six (6) seconds. These signs distract drivers and impact traffic safety.

3. Moving signs, including any sign which has any visible moving parts, visible revolving parts, visible mechanical movement, or other visible movement achieved by electrical, electronic, or mechanical means, including movement caused by normal wind current. These signs distract drivers and impact traffic safety.

4. Obsolete signs.

5. Signs affixed to a parked vehicle or truck trailer which is being used principally for advertising purposes rather than for transportation purposes.

6. Any sign which obstructs free access to or egress from a required door, window, fire escape, driveway or other required exit from a building or premises.

7. Any sign unlawfully installed, erected, enlarged, altered, moved or maintained.

8. Signs on street furniture including, but not limited to, signs on benches and trash receptacles.

9. Off-premise advertising signs.

C. Temporary Signs

Temporary signs shall be permitted as specified in Table 8.1:

TABLE 8.1: TEMPORARY SIGN STANDARDS

Type of Sign	Districts Permitted	Type of Sign Permitted	Maximum Size	Maximum Height	Maximum Number Per Parcel	Permit Required	Required Setback	Permitted Duration [g]
Construction Sign	AG, RB, Office, Commercial, DNO, LCMR, Industrial	Ground or Wall	32 sq. ft.	15 ft.	1	No	[a]	From: issuance of Building Permit To: 14 days after occupancy.
	RA-1, RA-2, RA-3, RA-4	Ground or Wall	12 sq. ft.	3.5 ft.				
Real Estate - sale or lease of individual home or residential lot	Residential	Ground	12 sq. ft.	3.5 ft.	1[b]	No	[d]	Remove within 14 days of completion of sale or lease
Real Estate - sale or lease of individual business or vacant lot	Office, Commercial, LCMR, Industrial, DNO	Ground or Wall	32 sq. ft.	10 ft.	1[b]	No	[d]	Remove within 14 days of completion of sale or lease
Real Estate - sale or lease of unplatted vacant	All	Ground	32 sq. ft.	10 ft.	1[b]	No	[a]	Remove within 14 days of completion of sale land or lease
Real Estate Development Sign	All	Ground	32 sq. ft.	10 ft.	[c]	No	[a][f]	Remove after 75% of units or lots are built
Grand Opening Sign	Commercial	Ground or Wall	16 sq. ft.	10 ft.	1	Yes	[d]	30 days
Garage Sale Sign	Residential	Ground or Wall	6 sq. ft.	30”	--	No	[d]	4 consecutive days
Community Special Event Sign	All	[e]	[e]	[e]	[e]	Yes	[d]	Duration of the event
Election Sign	All	Ground or Wall	32 sq. ft.	5 ft.	[i]	No	[d]	Remove within 14 days of the election
Banner Signs	CC, RC, LCMR, IA, IB	Plastic or Fabric	32 sq. ft.	15 ft.	1	Yes	[d]	30 days
Real Estate Signs	[h]	Plastic or Fabric	32 sq. ft.	15 ft.	1[j]	No	[d]	[h]
Pennants	[h]	Plastic or Fabric	--	--	--	No	[d]	[h]
Personal Special Occasion Signs	Residential Districts	Per definition in Section 2.03	25 sq. ft.	8 ft.	1	No	[a]	5 consecutive days

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Footnotes

[a] The temporary sign shall be set back from any property or right-of-way line a distance equal to the height of the sign.

[b] On a corner parcel two (2) signs, one (1) facing each street, shall be permitted.

[c] Two (2) on-premise signs shall be permitted on private property within the development and shall not be located within five hundred (500) feet of one another.

[d] The temporary garage sale signs may be located in the area between the curb or road edge and the property line (the outlawn). Signs located in the right of way.
1. May not exceed 30" in height above the level of the crown of the road.
2. Each sign must have the owner's name and address on it.
3. Permission from the property owner must be obtained.
4. Signs in the right of way must not obstruct vehicular or pedestrian traffic.
5. Signs may be placed in the right of way from 8:00am Thursday until 8:00am Monday the week of the sale. Signs must be removed by 8:00am Monday.

[e] Community special event signs may include banners or other devices advertising a public entertainment or event, if specially approved by the City Manager or his authorized representative.

[f] Real estate development signs shall not be erected within fifty (50) feet of any occupied dwelling unit.

[g] The Building Official may require a performance bond to assure proper removal of temporary signs upon expiration of the permitted duration.

[h] Banners and pennants for the purpose of advertising real estate open houses and builders parade of homes are permitted in all districts but shall be limited to periods not to exceed seventy-two (72) consecutive hours, no more than four (4) times per calendar year. Banners and pennants for advertising special promotions and events are permitted in all nonresidential districts but shall be limited to periods not to exceed one hundred and sixty-eight consecutive hours, no more than four (4) times per calendar year.

[i] Total sign area, in aggregate, shall not exceed 32 square feet for residentially zoned parcels.

[j] All properties on corner lots may erect two (2) real estate signs.

Section 8.05 -- SIGN DESIGN STANDARDS

A. Illumination

1. **General Requirements**
   Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign, or internal to it.

2. **Non-Glare, Shielded Lighting**
   Use of glaring undiffused lights or bulbs shall be prohibited. Lights shall be shaded so as not to project onto adjoining properties or streets. Signs that incorporate flashing or moving lights, or screens capable of displaying moving images and/or L.E.D. (light emitting diode) sign images shall not be brighter than 500 candelas per square meter during the nighttime hours of 7 p.m. to 7 a.m. The sign must have an automatic dimmer control which produces a distinct illumination change from a higher, daytime illumination level to the designated nighttime level prescribed above.

3. **Bare Bulb Illumination**
   Illumination by bare bulbs or flames is prohibited, except that bare bulbs are permitted on changeable copy signs and theater marquees.

4. **Signs Displaying Moving Images**
   Signs that incorporate flashing or moving lights, or screens capable of displaying moving images that flash or move or otherwise change at regular or irregular intervals (e.g. L.E.D. signs) shall be turned off when the businesses or buildings, that they service or provide advertisement for, are located in, bordering, directly adjacent to, or sharing a common property line with any residential zoning districts when those businesses or buildings are not open for business, or special events or other activities.

B. Location

1. **Within a Public Right-of-Way**
   No sign shall be located within, project into, or overhang a public right-of-way except as permitted by the City Engineer.

2. **Setback Requirements from Right-of-Way and Street Property Lines**
   See table 8.4 for sign setback requirements.

3. **Sight Lines for Motorists**
   Signs shall comply with the requirements for unobstructed motorist visibility in Section 3.09A(5) – Unobstructed Sight Distance.

4. **On-Premise Advertising Signs**
   On-premise advertising signs shall be located on the parcel of the use to which the sign pertains. If a driveway off the premises services the use, an advertising sign for that use may be allowed at the driveway under the following conditions:
   a. If the driveway services more than one (1) use, a single sign advertising all uses serviced by the driveway is allowed.

   b. All provisions of Table 8.2 are met for the use or uses serviced by the driveway.

C. Measurement

1. **Sign Area**
   Sign area shall be computed as follows:
   a. General Requirements. The extreme limits of the writing, representation, emblem or any figure or similar character together with any frame or other material forming an integral part of the display shall be enclosed in a circle, square, rectangle, or parallelogram. The street address, in compliance with insert cross reference, and the necessary supports or uprights upon which the sign is placed shall not be enclosed in the aforesaid shape. The area of the shape shall be the sign area.

   b. Double-Face Sign. The area of a double-face sign shall be computed using only one (1) face of the sign provided that the two (2) faces are back-to-back, so that only one face is visible at any given time, and at no point are more than three (3) feet apart. If the two faces are of unequal area, the larger face shall be used to determine compliance with sign face area requirements. If the faces are not back-to-back and/or more than three (3) feet apart at any given point, then the area of all sign faces shall be included in determining the area of the sign.

   c. Add-On Signs. The area of any add-on signs shall be computed as part of the sign area.

2. **Setback, Height and Distance Measurements**
   The following guidelines shall be used to determine compliance with setback, height and distance measurements:

   a. The distance between two signs shall be measured along a straight horizontal line that represents the shortest distance between two signs.

   b. The distance between a sign and a parking lot or building shall be measured along a straight horizontal line that represents the shortest distance between the outer edge of the parking lot or building.

   c. The distance between a sign and a building or property line shall be measured along a straight horizontal line that represents the shortest distance between the sign and the building.

   d. Maximum sign height shall be measured from the top of the sign structure to the lowest adjacent grade within ten (10) feet of the sign.

D. Wall, Ground and Roof Signs

All wall, ground and roof signs shall meet the following provisions:

1. **Area**
   The aggregate area of the wall, ground and roof signs a use displays may not exceed the maximum area that Table 8.2 allows for in that zoning district.

2. **Wall Sign Projection**
   Wall signs may be painted on or attached to or pinned away from the wall but shall not project from the wall by more than twelve (12) inches.

3. **Wall Sign Height**
   The top of the wall sign shall not be higher than the lowest point of the roof (e.g. eaves or parapet).

4. **Roof Sign Height**
   The top of the roof sign may not be higher than the roofline of the building.

5. **Ground/Monument Sign Height**
   Ground and monument sign height shall be determined by Table 8.2.

E. Projecting Signs

All projecting signs shall comply the following provisions

1. **Clearance**
   Projecting signs shall clear sidewalks by a least eight (8) feet and may project no more than four (4) feet from a building.

2. **Placement**
   Projecting signs shall project from the wall at an angle of ninety (90) degrees.

3. **Height**
   The top of a projecting sign may not extend vertically above one and a half (1 ½) stories above grade.

4. **Undercanopy Signs**
   All undercanopy signs shall comply with the provisions in Section 8.07.F.

Table 8.2: ON-PREMISE ADVERTISING SIGN STANDARDS

Zoning District	Wall and Roof signs				Projecting signs			Ground Signs			
	Area	Height	#	Notes	Area	#	Notes	Area	Height	#	Notes
AG, RA – Permitted Nonresidential Uses	12 sq. ft.	See Section 8.05.D	1	a,b,c	Not Allowed			12 sq. ft.	5 ft.	1	a,b,c,m
RB	12 sq. ft.		1	a,b,c	Not Allowed			18 sq. ft.	5 ft.	1	a,b,c,m
RD	40 sq. ft.		1	b,c	Not Allowed			40 sq. ft.	5 ft.	1	a,b,c,j,m
OS – Permitted Nonresidential Uses	12 sq. ft.			a,b,c,d	Not Allowed			12 sq. ft.	5 ft.	1	a,i,j,k,m
Community	50 sq. ft.				Not Allowed			32 sq. ft.	15 ft.	1	a,j
NC	40 sq. ft.			e,f,g	8 sq. ft.	1	f	40 sq. ft.	8 ft.	1	i,j,m
CC, RC	150 sq. ft.			e,f,g	Not Allowed			100 sq. ft.	20 ft.	1	i,j,k,l
CCO	100 sq. ft.			e,o,p,q	12 sq. ft.	1	r	60 sq. ft.	12 ft.	1	s,t
D	40 sq. ft.			d,e,f,g	8 sq. ft.	1	f	40 sq. ft.	8 ft.	1	l,m
D-O	40 sq. ft.			d,e,f,g	8 sq. ft.	1	f	12 sq. ft.	5 ft.	1	l,m,n
DNO	See Section 8.08 Downtown Northside Overlay (DNO) District Signs										
IA, IB	300 sq. ft.			e,f,g,h	Not Allowed			150 sq. ft.	25 ft.	1	i,j,k
LCMR	150 sq. ft.			e,f,g	Not Allowed			100 sq. ft.	18 ft.	1	i,j,k

Wall, Roof, and Ground Sign Footnotes:

[a] Places of worship and other religious institutions shall be permitted one (1) additional on-premise advertising sign for each school, parsonage, or other related facility.

[b] Public and quasi-public buildings and facilities, schools, and places of worship, when combining the name with a sign as permitted in Section 8.04.A.9, may have a total name with sign area of 32 sq. ft.

[c] One (1) residential entranceway or identification sign, either a wall or ground sign, shall be permitted at each entrance to a subdivision, apartment complex or other residential development. The residential entranceway or identification sign shall comply with the provisions of Section 8.06.D.

[d] Where a site has no ground sign on a site in the D-O district, a sign may run the length of an awning up to the maximum wall sign area allowed in table 8.2.

Wall and Roof Sign Footnotes:

[e] Where multiple business, office or industrial establishments are located in a single building with common, exterior entrances, the total area of all signs on the parcel may be increased by four (4) square feet for each additional establishment, up to a maximum of thirty-two (32) additional square feet.

[f] Where multiple business, office or industrial establishments are located in a single building and each has its own exterior entrance, each establishment will be allowed additional wall signage so long as the total wall signage for the entire building does not exceed the Zoning Ordinance requirements. In addition to the maximum sign area permitted by Table 8.2, sign area may be increased based on the street frontage measured at the right of way line on a one to one ratio, up to a maximum of 150 square feet.

[g] For buildings on corner or through lots, the maximum total area of all wall signs may be increased by fifty percent (50%) where the signage is divided between the two (2) street frontages. The larger of the two (2) signs shall not exceed the maximum sign area permitted by Table 8.2.

Ground Sign Footnotes:

[h] In the IA and IB districts, the size of all wall signs on each wall where signage is permitted, may be increased if

1. Any point of the principle structure on the wall on which the sign size will be calculated, is more than 200’ from the property line abutting a public road, measured from a 90 degree angle at the road right of way. The structure must be located on the property abutting the public road from which the measurement is being taken.

2. There is at least 200’ of frontage on the public road identified in item 1. of this provision.

3. If items 1. and 2. are met,
   a. The total signage on a wall facing a public road may be increased by 1 square foot for each foot greater than 200’ lineal feet, not to exceed 600 square feet on any one wall.
   b. Multiple signs may be placed on one wall provided the total square footage on any one wall does not exceed 600 square feet.
   c. If all walls of the principle structure are less than 200’ from the road, the sign may not exceed 300 square feet of total signage on the parcel, per Table 8.2.
   d. If the property owner chooses not to place any signage on a wall facing a public right of way on a qualifying structure, wall signage, at the size it would have been had it faced the road, may be used on another wall without public road frontage.
   e. Total wall signage on all walls on any qualifying structure may not exceed 1,200 square feet.

[i] For large parcels: one (1) additional ground sign is permitted for each six hundred (600) feet of road frontage measured at the right-of-way line over and above six hundred (600) feet. Multiple signs shall be spaced at least two hundred (200) feet apart.

[j] For corner lots: The maximum area of all ground signs shall not exceed the maximum sign area listed in Table 8.2, except where a parcel has frontage on more than one street, an additional ground sign may be permitted facing the secondary frontage provided it does not exceed one half (1/2) the maximum square footage of the primary ground sign square foot listed in Table 8.2.

[k] Industrial, Office and Commercial Parks: The ground sign shall not exceed 100 sq. ft. in area. Industrial, Office and Commercial Park identification/directory ground signs that list the names of all of the businesses within the park are permitted at the main entrance. In no case, shall this ground sign be located within the public right of way.

[l] One additional sign is permitted in the RC, IA, IB, LCMR district if the sign is an entranceway identification sign to a commercial or industrial development, is of monument style and does not exceed eight (8') feet in height or twenty-four (24) square feet. Ground signs are permitted only if the building is set back a minimum of two (2) feet from the property line.

[m] Only monument ground signs are permitted. Pole mounted ground signs are not permitted due to sign height and underclearance restrictions listed in Table 8.2.

[n] Ground signs in the D districts shall only be permitted in the side yard setback a distance equal to the building and shall not be permitted between the building and the front lot line.

[o] In the CCO district, where multiple businesses or office establishments are located in a single building and each has its own exterior entrance, each establishment will be allowed wall signage of 2.0 square feet of wall signage for every lineal foot of tenant lease building frontage, up to a maximum of 100 square feet per tenant. This shall be measured on the face of the building which contains the main entrance to the establishment.

[p] In the CCO district, business establishments of 30,000 square feet or more of usable floor area may be allowed wall signage of 2.0 square feet for every lineal foot of tenant lease building frontage, which shall be measured on the face of the building which contains the main entrance, up to the amount indicated in the following schedule:

Allowed Wall Signage for Large Scale Establishments (CCO District)	
Usable Floor Area	**Wall Signage Maximum Area**
30,000-39,999 sq. ft.	200 sq. ft.
40,000-49,999 sq. ft.	240 sq. ft.
50,000+ sq. ft.	280 sq. ft.

[q] For sites in the CCO district with more than one street frontage (e.g. corner lots, through lots): additional wall signage may be permitted facing the secondary frontage(s) provided it does not exceed 50% of the permitted square footage. For additional secondary frontage signage, one single sign may be no more than 100 square feet.

[r] Projecting signs shall be permitted provided they are oriented towards pedestrian traffic and have a minimum clearance of eight (8) feet.

[s] Ground signs in the CCO district must be monument style signs constructed with a base using decorative stone, brick, or enhanced concrete.

[t] For sites in the CCO district with more than one street frontage (e.g. corner lots, through lots): an additional ground sign may be permitted facing the secondary frontage provided it does not exceed 30 sq. ft. (Half of the maximum square footage of the primary ground sign).

Section 8.06 -- RESIDENTIAL AND AGRICULTURAL DISTRICT SIGNS

The following signs shall be permitted in all districts zoned for residential use:

Table 8.3: GENERALIZED SCHEDULE OF SIGN STANDARDS FOR RESIDENTIAL USES

Type of Sign	Number	Notes
Nameplate	1	2 sq. ft. maximum area
Street Address	Shall comply with Section 304.3 of the International Property Maintenance Code	
Places of Worship	1[a] [b]	
Real Estate Signs	1[b]	12 sq. ft. maximum area
Garage Sale Signs	--	6 sq. ft. maximum area
Residential Entranceway Signs	1[c]	See Subsection 8.07.D
Home Occupation	1	2 sq. ft. maximum area
Non-residential Uses	Shall comply with Table 8.2	

Footnotes:

[a] One (1) additional sign shall be permitted for each school, parsonage, or other related facility.

[b] On a corner parcel, or double fronting two (2) signs, one facing each street, shall be permitted.

[c] One (1) sign is permitted at each entrance to a subdivision, apartment complex or residential development.

A. Nameplate and Street Address

A nameplate sign shall be permitted in accordance with Section 8.04A. The sign may not project within five (5) feet of any property line. All street addresses shall comply with Section 304.3 of the International Property Maintenance Code.

B. Real Estate Signs

Real estate signs shall be permitted in accordance with Section 8.04C.

C. Garage Sale Signs

Garage sale signs shall be permitted in accordance with Section 8.04C.

D. Residential Entranceway Signs

One (1) residential entranceway or identification sign, either a wall or ground sign, shall be permitted at each entrance to a sub-division, apartment complex or other residential development in accordance with the following regulations:

1. **Area**
   The maximum area for such sign shall be twenty-five (25) square feet.

2. **Height**
   The maximum height for such sign shall be six (6) feet.

3. **Setback**
   All ground signs shall be set back a minimum distance of fifteen (15) feet from any property line or right-of-way line.

E. Signs for Nonresidential Uses

Each nonresidential use in a residential district shall be permitted one wall or ground sign, provided that the type, height, area, and number of signs shall comply with Table 8.2

Section 8.07 -- NONRESIDENTIAL DISTRICT SIGNS

The following signs shall be permitted in districts zoned for nonresidential use (Community - COM, Office Service - OS, Neighborhood Commercial - NC, Community Commercial - CC, Regional Commercial - RC, Downtown – D, Circle - C, LCMR, Industrial A - IA, and Industrial B – IB Zoning Districts):

A. Nameplate and Street Address

A nameplate and street address shall be permitted in accordance with Section 8.04.A. The street address shall comply with Section 304.3 of the International Property Maintenance Code.

B. Real Estate Signs

Real estate signs shall be permitted in accordance with Section 8.04C.

C. Projecting and Roof and Wall Signs

Projecting, roof and wall signs shall be permitted in non-residential districts as authorized by Table 8.2.

1. **Murals**
   Murals, displaying a commercial message, may be permitted in all non-residential districts provided they adhere to the maximum wall sign area requirements listed in Table 8.2.

D. Ground Signs

Ground signs shall be permitted in the community district, commercial districts, industrial districts, and office districts subject to the provisions of Section 8.05 and the following regulations:

1. **Building Setback**
   Ground signs shall be permitted only if the buildings are set back at least two (2) feet from the property line.

2. **Number**
   One (1) ground sign shall be permitted per street frontage on each parcel. However, only one sign shall be permitted on lots having frontage on more than one street if a single sign can be located such that it is clearly visible from both streets. In multi-tenant buildings or shopping centers, the sign area may be allocated for use by individual tenants.

3. **Sign Setbacks**
   All ground signs shall comply with the setback requirements in Table 8.4:

TABLE 8.4: GROUND SIGN SETBACKS

Zoning District	Setback from Property Line	Setback from Residentially Zoned or Used Property
Community	none	25 feet
AG, RA – Permitted Nonresidential Uses	5 feet	None
NC, C, D, OS, D-O	5 feet	25 feet
CC, RC	none	None
LCMR	none	50 feet
Industrial A and Industrial B	none	None

4. **Pole Mounted Ground Signs**
   Pole mounted ground signs are permitted in the Community, Regional Commercial, Community Commercial, LCMR and Industrial districts. Pole mounted ground signs are not permitted in the Center City Overlay district. All pole mounted ground signs shall comply with the following regulations:

   a. Pole mounted ground signs shall have a minimum under clearance height of (8) feet.

   b. Pole mounted ground signs shall comply with the height and area regulations in Table 8.2.

   c. Pole mounted ground signs shall not be located within the clear vision corner nor shall they obstruct vehicular or pedestrian sight lines.

5. **Monument Ground Signs**
   Monument ground signs are permitted in all districts. Monument Ground Signs shall comply with the following regulations:

   a. Monument ground signs may not be located in the clear vision triangle or otherwise obstruct lines of sight for vehicular or pedestrian traffic.

   b. A landscaped area including planting beds and/or shrubs shall be provided and maintained around the monument ground sign.

E. Awnings and Canopies

Signs on awnings and canopies in commercial, office-service, community and industrial districts shall be permitted, subject to the following standards:

1. **Compliance with Size Requirements for Wall Signs**
   The area of signs on awnings or canopies shall be counted in determining compliance with the standards for total area of wall signs permitted on the parcel.

2. **Projection**
   Limitations imposed by this Ordinance concerning projection of signs from the face of a wall or building shall not apply to awning and canopy signs, provided that such signs shall comply with the permitted projections into yards for awnings and canopies in Table 3.2.

F. Undercanopy Signs

One (1) undercanopy sign shall be permitted for each business, subject to the following conditions:

1. **Vertical Clearance**
   A minimum vertical clearance of eight (8) feet shall be provided between the bottom edge of the sign and the surface of the sidewalk.

2. **Orientation**
   Undercanopy signs shall be designed to serve pedestrians rather than vehicular traffic.

3. **Size**
   Undercanopy signs shall not exceed two (2) square feet in area.

G. Types of Signs Allowed in Non-Residential Districts

The following types of signs are allowed in the non-residential districts, provided that they comply with all provisions of this Article:

1. Add-on sign.

2. Animated sign, including scrolling screens or scenes, provided the movement or change of lighting changes in intervals of six (6) seconds or more.

3. Bulletin board.

4. Changeable copy signs.

H. Signs in the Downtown, Center City Overlay, and Circle Districts

The Downtown and Circle Districts are unique centers for the City of Midland. It is important to capture and preserve the unique character of the both areas in the types of signs permitted. Accordingly, the following additional standards shall apply to signs in the Downtown**,** Center City Overlay and Circle districts:

1. **Location**
   Signs shall not cover architectural details such as arches, transom windows, moldings, columns, capitals, sills cornices and similar details.

2. **Materials**
   Sign materials shall complement the original construction materials and architectural style of the building facade. Generally, wood or metal signs are considered more appropriate than plastic.

3. **Illumination**
   In the Downtown and Circle districts only, it is preferred that signs be illuminated using a direct but shielded light source, rather than internal illumination.

4. **Projecting Signs**
   Projecting signs shall be permitted provided they are oriented towards pedestrian traffic, have a minimum under clearance of eight (8) feet, and have a maximum size of twelve (12) square feet.

5. **Signs Allowed in the Downtown, Center City Overlay, and Circle Districts Only**
   The following signs are allowed in the Downtown, Center City Overlay, and Circle districts:

   a. Sandwich board signs with a maximum sign area of 16 square feet. Sandwich board signs shall not obstruct pedestrian access and shall not be permanently affixed to the sidewalks or any structure within the public right of way. Sandwich board signs must be portable and free-standing in design.

   b. In the CCO district only, sandwich board signs must be constructed using high-quality materials including metal, plastic, wood, composite or hardboard (chalkboard or dry erase).

   c. In the CCO district only, sandwich board signs must be placed on an improved, pedestrian oriented surface and must be located within eight (8) feet of the pertaining establishment's main entrance.

   d. In the CCO district only, sandwich board signs are only permitted outdoors during business hours and must be removed from the pedestrian walkway and placed inside the establishment during non-business hours.

I. Outline Tubing (Neon) Signs

Outline tubing signs, also known as neon signs, are permitted in commercial districts subject to the following conditions:

1. **Construction**
   Such signs shall be enclosed unless the applicant provides sufficient documentation that unenclosed signs satisfy requirements in the adopted Building Code.

2. **Maximum Size**
   Such signs shall be considered wall signs for the purposes of determining compliance with maximum size standards.

Section 8.08 – DOWNTOWN NORTHSIDE OVERLAY (DNO) DISTRICT SIGNS

A. The following signs are permitted on a per tenant on the ground floor with street frontage or per public entrance basis:

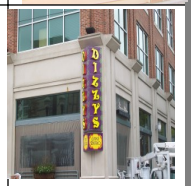
TABLE 8.5

Type of Sign	Number	Max. Size	Location	Other	Example
Name plate/ Plaque	1 per street frontage	8 s.f.	Any wall		
Street Address	1 per street frontage	Letters up to 8" high	Any wall 6'-10' above sidewalk grade	Non cursive lettering	
Blade/Shingle	1 per street frontage	6 s.f. 9' clearance above sidewalk	Ground floor	May not be internally illuminated	
Sandwich	1 per street frontage	64"h x 28"w Display area of 48"h x 28'w	Sidewalk, not blocking traveled portion Displayed only when business is open	Must be two sided Securely hinged[1] No changeable copy[2]	
Window	2 per tenant	6 s.f. of total signage	Ground floor or second story	May not be painted	
Directional	Per section 8.04 A. 11.				

[1] Securely hinged means hinged at the top and properly stabilized with 36" of chain between faces or the equivalent and a weighting mechanism that is properly screened.
[2] Changeable copy using individually placed letters is prohibited on all signs including sandwich board signs. Chalk board are permitted.

B. In addition to the signs permitted in item A. of this section, an awning or canopy and any one signs per building façade area is permitted according to the following schedule:

TABLE 8.6

Type of Sign	Number	Max. Size	Location	Other	Example
Wall, Band	1 wall band Up to 3 signs within wall band	2' H x 20' W and 80% of building lineal frontage Letters up to 24" high, 3" depth	May not be within 2' of an adjacent common lot line or boundary of the area permitted to be used by the tenant		
Wall, Other	1 wall sign	Not to exceed 5% of square footage of the building facade or 80 s.f.	Above the second story		
Awning/Canopy			Min.8' clearance above sidewalk	Quarter cylinder style is prohibited	
Marquee	1 per corner of a building located at the intersection of two public streets and 1 per 250' of building street frontage.	Not to exceed 70 s.f. Max height = 50% of structure	Min. 10' clearance above sidewalk	Signs may be placed on both sides of marquee.	

C. The following signs are prohibited:

TABLE 8.7

Type of Sign	Other	Example
Freestanding signs		
Painted window signs	Temporary	
Painted on exterior of buildings	Excludes murals	
Any sign feature that has flashing, traveling, animated, or intermittent light associated with it.		
Portable, wheeled or otherwise moveable advertising devices	Excluding sandwich signs	
Roof	Signs or displays of any kind	
Awning	Quarter cylinder style	
Sandwich	Moveable letters	

ARTICLE 9.00

SITE DEVELOPMENT STANDARDS FOR SPECIFIC USES

Section 9.01 -- INTENT AND SCOPE OF APPLICATION

Each use listed in this Article, whether permitted by right or subject to approval as a conditional land use, shall be subject to the site development standards specified, in addition to applicable standards and requirements for the district in which the use is located. These standards are intended to mitigate the impact from a use which is of a size or type, or which possesses characteristics which are unique or atypical in the district in which the use is located. These standards are further intended to assure that such uses will be compatible with surrounding uses and the orderly development of the district.

Unless otherwise specified, each use listed in this Article shall be subject to all applicable yard, bulk and other standards for the district in which the use is located. Compliance with the standards in this Article does not relieve the owner or operator of a permitted use from complying with additional standards in other applicable City ordinances.

Section 9.02 -- SITE DEVELOPMENT STANDARDS FOR NON-RESIDENTIAL USES

A. Adult Book or Supply Stores, Adult Motion Picture Theaters, Adult Live Stage Performing Theaters, Adult Outdoor Motion Picture Theaters, Group "A" Cabarets, and Massage Parlors or Massage Establishments

In the development and execution of this Ordinance and this Section, it is recognized that there are certain uses which, because of their very nature, have serious objectionable characteristics, particularly when several of them are concentrated under certain circumstances, thereby having a deleterious effect upon the adjacent areas. The special regulations in this section are intended to prevent a concentration of these uses in any one area, so as to prevent the blighting, deterioration, or downgrading of an area. The following requirements are intended to accomplish these purposes:

1. The establishment of the types of Adult Regulated Uses listed below shall be prohibited if the establishment of such use will constitute the second such use within a one thousand (1,000) foot radius (i.e., not more than one such use within one thousand (1,000) feet of another). The distance between uses shall be measured horizontally between the nearest property lines.

    a. Adult Book or Supply Stores

    b. Adult Motion Picture Theaters

    c. Adult Motion Picture Arcade

    d. Adult Motel

    e. Adult Model Studio

    f. Adult Live Stage Performing Theaters

g. Adult Outdoor Motion Picture Theaters

h. Group "A" Cabarets

i. Massage Parlors or Massage Establishments

2. It shall be unlawful to hereafter establish any Adult Regulated Use if the proposed regulated use will be within a five hundred (500) foot radius of the following:

a. Any "Class C" establishment licensed by the Michigan Liquor Control Commission.

b. Pool or billiard halls.

c. Coin-operated amusement centers.

d. Disco or dance centers which typically cater to teens.

e. Ice or roller skating rinks.

f. Pawn shops.

g. Indoor or drive-in movie theaters.

h. Public parks, playgrounds, or other recreation uses.

i. Churches, convents, monasteries, synagogue, or similar religious institutions.

j. Day care centers or nurseries.

k. Any public, private or parochial nursery, primary, or secondary school.

l. Any residentially used or zoned land.

m. Art gallery.

n. Theater

o. Museum

p. Civic building

The distance between uses shall be measured horizontally between the nearest property lines.

3. The building and premises shall be designed and constructed so that material depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Area" (as defined in this Ordinance) cannot be observed by pedestrians or from vehicles on any public right-of-way. This provision shall apply to any display, decoration, sign, show window, or other opening.

B. Automobile or Vehicle Dealers, Mobile Home Sales

Automobile or vehicle dealers with repair facilities or outdoor sales space shall be subject to the following requirements. These requirements shall apply to operations involved in the sale, lease or rental of new or used vehicles, house trailers, recreational vehicles, trucks, mobile homes, and other vehicles.

1. Grading, Surfacing, and Drainage

Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall be hard surfaced with concrete or plant-mixed bituminous material and shall be graded and drained so as to dispose of surface waters. Grading, surfacing, and drainage plans shall be subject to review and approval by the City Engineer.

2. Servicing of Vehicles

Any servicing of vehicles, including major motor repair, auto body repair and refinishing, shall be subject to the following requirements:

a. Service activities shall be clearly incidental to the vehicle sales operation.

b. Vehicle service activities shall occur within a completely enclosed building.

c. Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored within a completely enclosed building or an open storage yard in compliance with the provisions of sub-section J.

d. The building containing service operations shall be located a minimum of fifty (50) feet from any property line.

e. There shall be no external evidence of the service operations, in the form of dust, odors, or noise, at the property line.

3. Setbacks

Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall comply with the requirements for parking lots, as specified in Section 5.01, subsection B.

4. Landscaping and Screening

Outside storage areas for vehicles shall be screened on all sides, except the side facing a street, with an obscuring wall or fence constructed in accordance with Section 7.01.

C. Automobile Filling Stations, Automobile or Vehicle Service Stations, Automobile Repair Garages, Parking Garages.

The following regulations shall apply to Automobile Filling Stations, Automobile or Vehicle Service Stations, Automobile Repair Garages and Parking Garages, including tire, battery, muffler and undercoating shops:

1. Minimum Setbacks

All buildings and accessory structures shall be set back a minimum of forty (40) feet from any lot line abutting a parcel zoned or used for residential purposes. The nearest edge of pump islands shall be located a minimum of thirty (30) feet from any lot line. Overhead canopies shall be set back a minimum of twenty (20) feet from any right-of-way line.

2. Above Ground Tanks

There shall be no above ground tanks for the storage of gasoline, diesel fuel, or oil.

3. Ingress and Egress

Filling or service stations are permitted one (1) access drive, except stations located on a corner lot shall be permitted one (1) access drive on each street.

4. Layout
All automobile service equipment, such as lubrication equipment, automobile wash equipment, hoists, and pits shall be enclosed entirely within a building. Gasoline pumps shall be located so that motor vehicles do not park on or extend over abutting landscaped areas, sidewalks, streets, buildings, or adjoining property while being served.

5. Outside Storage and Activity
Wrecked or partially dismantled vehicles shall be stored in the rear yard within a masonry screening wall or obscuring fence that is not less than six (6) feet in height, per Section 7.01. All activities, except those required to be performed at the fuel pump, shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.

6. Exterior Lighting
All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property, subject to the requirements in Section 3.12.

7. Screening
When adjoining residentially zoned property, a screening wall or landscaping shall be provided subject to the requirements in Articles 6.00 and 7.00. A fixed curb or barrier shall be installed to prevent vehicles from contacting the screening.

D. Automobile Wash or Car Wash Establishment

The following regulations shall apply to Automobile Wash or Car Wash Establishments:

1. Layout
All washing activities shall be carried on within an enclosed building. Vacuuming activities shall be permitted, provided such activities are located at least fifty (50) feet from adjacent residentially zoned or used property. Entrances and exits shall not face abutting residentially zoned or used property.

2. Entrances and Exits
Sufficient space shall be provided on the lot so that vehicles do not enter or exit the wash building directly from an adjacent street or alley. All maneuvering areas, stacking lanes, and exit aprons shall be located on the car wash parcel itself. Streets and alleys shall not be used for maneuvering or parking by vehicles to be serviced by the automobile wash.

3. Orientation of Open Bays
Buildings should be oriented so that open bays, particularly for self-serve automobile washes, do not face onto adjacent thoroughfares unless screened by landscaping.

4. Exit Lane Drainage
Exit lanes shall be sloped to drain water back to the wash building to drainage grates.

E. Clubs and Lodges

Clubs and Fraternal organizations may only be located above the first floor.

F. Colleges and Universities

The following regulations shall apply to colleges and universities located in Agricultural Districts:

1. The site shall be at least twenty (20) acres in area.
2. Primary access shall be onto a major thoroughfare.

3. No building or other use of the land, except passive landscaped areas, shall be within one hundred (100) feet of any abutting residential use.

G. Drive-Up Establishments

1. An obscuring wall or fence shall be provided along all property lines abutting property that is zoned for residential or agricultural use, subject to the requirements in Section 7.01.
2. These structures shall be placed at the perimeter of parking areas or in an area dedicated to their use and apart from general parking lot circulation.
3. Facilities may be designed for use by vehicles and nonmotorized transportation.
4. The height and placement shall not create a physical or sight obstruction to traffic circulation or any principal use on the parcel.
5. Any signage shall be located on the walls of the structure. Roof signs and moving signs are prohibited.

H. Mini-Warehouses

The following regulations shall apply to mini-warehouses:

1. Permitted Use

Mini-warehouse establishments shall provide for storage only.

2. Site Enclosure

The entire site, exclusive of access drives, shall be enclosed with a six (6) foot high obscuring wall or fence, constructed in accordance with Article 7.01.

3. On-Site Circulation and Parking

a. All one-way aisle ways shall be designed with one (1) ten (10) foot wide loading/unloading lane and one (1) fifteen (15) foot travel lane.

b. The parking lanes may be eliminated if the driveway does not serve storage units. Signs and painted lines shall be used to indicate parking and traffic direction throughout the site.

I. Congregate Housing, Dependent Housing Facilities, Residential Treatment Centers, Transitional Housing and Day Shelters

The following regulations shall apply to Congregate Housing, Dependent Housing Facilities, Residential Treatment Centers, Transitional Housing and Day Shelters:

1. Location and number

Nonresidential uses as listed in this section may not be located within one thousand (1000') feet of a school or Day Care Center, excluding Nursing and Convalescent Homes. No more than one nonresidential use may be located in a block, as defined by this ordinance.

2. Height

The maximum height of buildings may exceed the maximum height permitted provided that additional setback is provided as follows:

a. When abutting or across the street from zoning districts Residential A-1 through Residential A-4, all yards shall be increased by one and one half (1½) feet for each foot of building height greater than the maximum height permitted in Article 26.

3. Screening

All outdoor activity such as waiting, eating and recreation areas must be screened from

adjacent residentially used or zoned property. Screening shall be with an opaque, solid fence six (6') feet in height. Landscaping must adhere to the requirements for newly constructed sites and should be used to provide additional screening.

4. Outdoor Activity
Outdoor activity must be conducted between the hours of 7:00am and 9:00pm and must be lighted during non daylight hours. Lighting must be screened from all adjacent property.

5. Security
Provisions for additional security measures shall be planned for the property on a site specific basis.

6. Transportation
Drop off and pick up areas shall be provided to accommodate individual vehicles and busses.

7. Parking
Parking shall be screened from adjacent residential uses. The minimum number of spaces required by Section 5.01, Table 5.3 may be modified by the Planning Commission to meet the specific needs of the facility.

J. Open Storage Yards

All open storage yards in industrial districts shall comply with the following regulations:

1. Setbacks from Residential Districts and Uses
All open storage yards shall have a minimum setback of fifty (50) feet from any property line of a parcel in a residential district or with a residential use.

2. Screening
All open storage yards shall be enclosed by an obscuring fence or wall to prevent loose material from blowing into adjacent properties.

3. Storage in Required Front Yard Setbacks
Open storage yards are prohibited in required front yard setbacks.

K. Public Utility Facilities

1. Public Utility Facilities in Residential A and B Districts
Public utility facilities may be permitted in Residential A and B districts subject to the following requirements:

a. No structure may be higher than twenty eight (28) feet.

b. No outdoor storage is permitted.

c. A minimum setback of fifty (50) feet from any property line is required.

2. Public Utility Facilities in Agricultural, Residential D, Community and OS Districts
Public utility facilities may be permitted in Agricultural, Residential D, Community and OS districts subject to the following requirements:

a. No outdoor storage is permitted

b. A minimum setback of fifty (50) feet from any property line is required.

3. Public Utility Facilities in D, D-O, DNO, C, NC, CC, RC and LCMR Districts
Public utility facilities may be permitted in D, D-O, DNO, C, NC, CC, RC and LCMR Districts provided that no outdoor storage is permitted.

L. Recreation Facilities

The following regulations apply to private recreation facilities, whether or not a fee or membership is required, and not to private facilities for the use of the property owner or tenant and their gratuitous guests. These regulations apply to outdoor recreational facilities, such as ski facilities, courses for off-road vehicles and snowmobiles, campgrounds, baseball facilities, playgrounds, sports fields, game courts, picnic areas, and swimming pools; and to indoor facilities, such as bowling establishments, billiard halls, indoor archery ranges, indoor tennis courts, indoor skating rinks, arcades, indoor driving ranges, and similar indoor recreation uses.

1. Setbacks for Outdoor Uses
Principal and accessory buildings shall be set back at least seventy-five (75) feet from all property lines, unless otherwise specified herein.

2. Setbacks for Indoor Uses
Principal and accessory buildings shall be set back at least fifty (50) feet from all property lines, unless otherwise specified herein.

3. Screening.
The Planning Commission may require outdoor recreation uses to be screened from view with landscaping from adjacent property zoned or used for residential purposes, in accordance with Section 6.02 E.

4. Accessory Retail Facilities
Accessory retail or commercial facilities, such as food and beverage facilities or equipment shops, shall be designed to serve only the patrons of the recreation facility, unless the retail or commercial facility is listed as a permitted use in the district in which the facility is located.

M. Correctional Facilities

The following regulations shall apply to correctional facilities:

1. All correctional facilities should have access to a major thoroughfare.

2. Any entrance where prisoners are brought into the facility should be from a major thoroughfare street.

3. Setback and Buffer from Residential Dwellings – Any part of the correctional facility or grounds accessible to prisoners shall be a minimum of three hundred (300) feet from any adjacent residential dwelling.

4. A buffer designed to minimize the visual and acoustic impacts of the facility shall be constructed in the required setback. The buffer may consist of an earth berm, trees, landscaping or other materials acceptable to the City Council. A fence or wall without landscaping shall not be considered an acceptable buffer.

5. Site lighting for all correctional facilities shall meet the following requirements:

   a. Only non-glare, color-corrected lighting shall be permitted.

   b. All outdoor lighting shall be shielded, so as to focus the light downward onto the site and away from abutting lots. The light source, or "hotspots" shall not be directly visible from abutting lots.

c. Light trespass from a property shall not exceed 1.0 foot-candles at the lot line, measured five feet above the average grade.

d. To prevent sky glow and glare or interference with the vision of motorists, lighting shall be shielded or designed to prevent light from projecting above a ninety (90) degree horizontal plane. The City Council may allow fixtures that allow light to project above a 90-degree horizontal plane if the fixture is directed at a building internal to the facility, and the light source of the fixture is not visible from any public roads or any abutting residentially used or zoned lots.

N. Off Street Parking Lots

The following provisions shall apply to off street parking lots constructed in Residential A-1, A-2, A-3, A-4 and Residential B zoning districts.

1. The off street parking lot must be accessory to and for use in connection with one or more offices or businesses located in an adjoining office or business district.

2. The lot must be constructed and maintained n accord with the provisions of Article 5.

3. Off street parking lots shall have access in accord with Article 3, Section 3.10.

4. Off street parking lots shall directly abut a non-residential zoning district(s).

5. Parking lots permitted under this provision shall not be used for off street loading, storage, display or sale of merchandise or vehicles or service or repair work of any kind.

6. Parking lots will not be used to locate refuse receptacles.

7. Display of signs, except those used to designate entrances, exits, and conditions of use of the off-street parking area, shall be prohibited.

8. The off street parking lot shall be screened from residential uses in accord with Article 6, Section 6.03 A.

9. All exterior lighting shall be in accord with Article 3, Section 3.12.

10. Street yard setbacks shall, at a minimum, equal the minimum setback of the abutting residential district.

11. Screening in accord with Article 6, Section 6.03, shall be required along the required front yard when located within 100’ of, or when located across any public or private street from, a residential zoning district.

12. A minimum setback of 10’ shall be provided between the side and / or rear property line and the edge of the parking lot.

13. All other uses of the property shall comply with the requirements of the district in which the parcel is located.

Section 9.03 -- SITE DEVELOPMENT STANDARDS FOR RESIDENTIAL USES

A. Multiple Family, Two Family and Townhouse Development

The following site development standards shall apply to all multiple family, two family, and townhouse development, including Elderly Housing Complexes and Senior Apartments:

1. Lot Dimensions

a. Lot Width and Maximum Lot Percentage
All multiple family, two family and townhouse developments shall meet the minimum lot width and maximum lot percentage in the Schedule of Regulations for the zoning district in which the development is located.

b. Side Yard Setback
All two family and townhouse developments and multiple family developments with a height of three (3) stories or less shall meet the side yard setback in the Schedule of Regulations for the zoning district in which the development is located. All multiple family developments with a height of four (4) stories or greater located adjacent to a single family residential dwelling zoning district shall have a side yard setback of fifty (50) feet.

c. Minimum Lot Area
Multiple-family developments and townhouses one (1) to three (3) stories in height shall comply with the lot dimensional requirements per dwelling unit specified in Table 9.1:

Table 9.1: LOT AREA REQUIRED PER DWELLING UNIT

Building Height	Square Feet of Lot Area Required Per:			
	Efficiency Unit	One-Bedroom Unit	Two-Bedroom Unit	Three or more Bedroom Unit
One Story Townhouse	3,600	3,600	4,000	4,400
Two or Three Story Apartments	2,000	2,000	2,500	3,500
Four Story Apartments	320	640	960	1,360
Five Story Apartments	300	600	900	1,280
Six Story or greater Apartments	280	560	840	1,200

2. Minimum Floor Area
The minimum floor area for each unit shall comply with the requirements in Table 9.2:

Table 9.2: MINIMUM FLOOR AREA PER DWELLING UNIT

Dwelling Unit Size	Minimum Floor Area
Efficiency Unit	360 sq. ft.
1 Bedroom Unit	500 sq. ft.
2 Bedroom Unit	620 sq. ft.
3 Bedroom Unit	760 sq. ft.
4 or more Bedroom Unit	840 sq. ft. + 80 sq. ft. for each additional bedroom

3. Building Spacing

The minimum distance between any two (2) multiple family or townhouse buildings shall be as required by the following Table 9.3:

Table 9.3: MINIMUM BUILDING SPACING

Relationship Between Buildings	Minimum Distance Between Buildings
Front to Front	40 ft.
Front to Rear	40 ft.
Rear to Rear	40 ft.
Side to Side	20 ft.
Front to Side	30 ft.
Rear to Side	30 ft.

4. Access and Circulation

Multiple family and townhouse developments shall comply with the following requirements for access and circulation:

a. Access to Roads

Multiple family and townhouse developments shall have direct access to paved roads by at least two (2) means of ingress and egress provided that the requirement for a second means of access may be waived by the approval authority when the approval authority determines that only one (1) means of ingress or egress is necessary to provide safe and sufficient access to the site.

b. Emergency Access

All dwelling units, including those under construction, shall be readily accessible by fire and emergency vehicles from a paved public road, paved private access road, or other approved paved area. Private roads or driveways dedicated as fire lanes shall be posted with signs indicating "Fire Lane, No Parking." To facilitate emergency vehicle access, the following guidelines shall be complied with:

(1) All roads shall be paved and bi-directional allowing for both ingress and egress. A boulevard may be utilized to provide bi-directional traffic movement, provided that the width of each paved moving lane in each direction is at least fifteen (15) feet.

(2) Streets with no outlet shall be terminated with a cul-de-sac, designed in accordance with standards of the City of Midland. Streets with no outlet shall not exceed one thousand (1,000) feet in length unless:

A. Reviewed by the Engineering, Fire, Planning and Public Services Departments; and
B. Approved, with or without conditions, by City Council.
C. On street parking within a cul-de-sac turnaround shall be prohibited.

c. Street Dimensions

On-site streets and drives shall comply with the standards in the Subdivision Control Ordinance**.** Section 3.10C, and the engineering standards of the City of Midland.

5. Sidewalks

Sidewalks shall be provided within multiple-family, two-family and townhouse developments. Sidewalks shall also provide convenient access to community buildings and between parking

areas and dwelling units. The sidewalks shall be designed and constructed in accordance with City of Midland engineering standards.

6. Parking

In addition to the requirements set forth in Article 5.00, multiple family developments shall comply with the following requirements:

a. Location

Required parking shall be located in parking lots or individual driveways. Parking may be permitted in required side and rear yard setback areas provided that parking lots and access drives shall be located a minimum of ten (10) feet from any property line or road right-of-way. Parking lots and access drives shall not be located closer than twenty-five (25) feet to a wall of any residential structure which contains windows or doors, nor closer than ten (10) feet to a wall of any residential structure which does not contain openings.

b. Parking for Community Building

Parking shall be provided for community buildings as specified in Article 5.00.

ARTICLE 12.00

ESTABLISHMENT OF ZONING DISTRICTS

Section 12.01 -- CREATION OF DISTRICTS

For the purposes of this Ordinance, the City of Midland is hereby divided into the following Zoning Districts as shown on the Official Zoning Map:

AG	Agricultural District
RA-1	Residential A-1 – Single Family Residential District
RA-2	Residential A-2 – Single Family Residential District
RA-3	Residential A-3 – Single Family Residential District
RA-4	Residential A-4 – Single and Two-Family Residential District
RB	Residential B – Multiple-Family Residential District
RD	Residential D – Mobile Home Park District
HP	Historic Preservation Overlay District
COM	Community District
OS	Office Service District
NC	Neighborhood Commercial District
CC	Community Commercial District
RC	Regional Commercial District
D	Downtown District
D-O	Downtown Overlay District
DNO	Downtown Northside Overlay District
C	Circle District
LCMR	Limited Commercial, Manufacturing and Research District
IA	Industrial A District
IB	Industrial B District

Section 12.02 -- ADOPTION OF ZONING MAP

The boundaries of the Zoning Districts listed in Section 12.01 are hereby established as shown on the map titled: Official Zoning Map of the City of Midland, Michigan. The Zoning Map with all notations, references, and other information shown thereon shall be, and is hereby declared to be a part of this Ordinance as if fully described herein.

In accordance with the provisions of this Ordinance and Michigan Public Act 207 of 1921, as amended, changes made in district boundaries and other matters portrayed on the Zoning Map shall be entered on the Zoning Map after the amendment has been approved by the City Council and has been published in a newspaper of general circulation in the City. No changes of any nature shall be made to the Zoning Map except in conformity with the procedures set forth in Article 30 of this Ordinance.

The official Zoning Map shall be located on file with the Planning and Community Development Department and shall be the final authority with regard to the current zoning status of all land in the City, regardless of the existence of copies of the Zoning Map, which may, from time to time, be made or published. This Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the following statement: "This is to certify that this is the Official Zoning Map of the City of Midland adopted on the eighth day of November, 2004."

Section 12.03 -- INTERPRETATION OF DISTRICT BOUNDARIES

The following rules shall apply to the interpretation of zoning district boundaries:

A. Boundaries indicated as approximately following the center lines of streets, roads, railroad rights-of-way, or alleys shall be construed to follow such center line.

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following the corporate limits of the City at the time of the adoption of this Ordinance shall be construed as following such limits.

D. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of a change in shore line, the boundary shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the center lines of streams, rivers, or other bodies of water shall be construed to follow such center lines.

E. Zoning district boundaries that are shown as being a continuation of or parallel to a road centerline, alley centerline, plat boundary line, or other feature, shall be construed as being a continuation of or parallel to such a feature. Distances not specified on the official Zoning Map shall be determined using the scale on the map. All streets, alleys and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such streets, alleys, or railroad rights-of-way.

F. Where there is any uncertainty, contradiction, or conflict concerning the intended location of zoning district boundaries, the Zoning-Enforcement Officer shall interpret the exact location of zoning district boundaries.

G. Insofar as some or all of the various districts may be indicated on the zoning map by patterns that, for the sake of map clarity, do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of the rights-of-way.

Section 12.04 -- ZONING UPON ANNEXATION

Whenever any area is annexed to the City of Midland, one of the following conditions shall apply:

1. Where the newly annexed area was zoned previous to annexation, the then-existing zoning regulations for the annexed territory shall remain in full force and effect for a period of two (2) years after annexation, unless the City Council shall lawfully adopt another zoning by Ordinance.

2. Areas unzoned prior to annexation shall be considered for zoning in accordance with the provisions of State law and this Ordinance.

Section 12.05 -- ZONING OF VACATED AREAS

Whenever any street, alley, or other public way within the City of Midland is vacated by action of the City Council, and when the lands within the boundaries become a part of lands adjoining the vacated lands, then the vacated lands shall automatically and without further action of the City Council take on the

same zoning classification applicable to lands to which the vacated lands are attached. When the centerline of the vacated street, alley or other public right-of-way is a boundary between zoning districts, the vacated land on either side of the centerline shall automatically take on the same zoning classification applicable to lands to which the vacated lands are attached and the centerline shall remain the boundary.

Section 12.06 -- ZONING OF FILLED LAND

Whenever any fill is permitted in any stream or other body of water, the newly created land automatically and without further governmental action becomes subject to the same zoning regulations that are applicable to the land to which the newly created land attaches.

Section 12.07 -- DISTRICT REQUIREMENTS

Buildings and uses in any district shall be subject to all applicable standards and requirements set forth in this Zoning Ordinance, including but not limited to Article 26.00 - Schedule of Regulations.

ARTICLE 13.00

AGRICULTURAL DISTRICT

Section 13.01 -- STATEMENT OF PURPOSE

The Agricultural District is intended to provide areas of the City for agricultural use, and other compatible uses that typically occupy large open land areas. The standards in this district are intended to provide a stable environment for continued agricultural production, assuring that permitted uses peacefully coexist in a low-density setting, while preserving the rural-like features and character of the District, until such time that the land may be needed for more intensive development.

Section 13.02 -- PERMITTED USES AND STRUCTURES

A. Principal Uses and Structures

In all areas zoned Agricultural District, no buildings shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal permitted uses:

1. Cultivation of farm crops and nursery crops.

2. Commercial greenhouses, including the sale of seeds, plants, fertilizers, and hand tools necessary for the care and cultivation of such plants.

3. Kennels.

4. Veterinary clinics.

5. Fire stations.

6. Schools.

7. Riding stables, commercial and private.

8. Single family detached dwellings.

9. The raising and keeping of farm animals and poultry.

10. Parks.

11. Golf courses and golf driving ranges.

12. Cemeteries.

B. Accessory Uses and Structures

The following uses and structures accessory to principal uses and structures in the Agricultural District shall be permitted, subject to the provisions in Section 3.03:

1. Home occupations, subject to the provisions in Section 3.06.

2. Signs, subject to the provisions in Article 8.00.

3. Off-street parking, subject to the provisions in Article 5.00.

4. Uses and structures incidental to and customarily associated with single family detached dwelling units, such as private garages.

5. The sale of products produced on the premises.

6. Small Wind Energy Systems.

C. Permitted Uses with Special Standards

In all areas zoned Agricultural District, the following uses are permitted, subject to the conditions specified for each use as set forth in Article 9.00.

1. Outdoor storage of recreational equipment in an accessory building, subject to the provisions in Section 5.01.F.

2. Public utility facilities, subject to the provisions in Section 9.02.K.

3. Campgrounds, subject to the provisions in Section 9.02.L.

4. Private recreation facilities, subject to the provisions in Section 9.02.L.

D. Conditional Land Uses

The following uses may be permitted by the City Council, subject to the conditions specified for each use; review and approval of the site plan by the City Council; any special conditions imposed by the City Council that are necessary to fulfill the purposes of this Ordinance; and the procedures and requirements set forth in Article 28.00.

1. Outdoor sales of nursery stock, garden supplies, and produce.

2. Radio and TV broadcasting towers, subject to the provisions in Section 3.16.

3. Animal shelters.

4. Places of worship.

5. Sanitary landfills.

6. Wireless Reception Facilities, subject to the provisions in Section 3.16.

7. Colleges and Universities, subject to the provisions in Section 9.02.F.

Section 13.03 -- DEVELOPMENT STANDARDS

A. Site Plan Review

Site plan review and approval is required for all uses in accordance with Article 27.00.

B. Area, Height, Bulk, and Placement Regulations

Buildings and uses in the Agricultural District are subject to the area, height, bulk and placement requirements in Article 26.00, Schedule of Regulations.

The following chart summarizes the regulations in Article 26.00, but the user is advised to refer to Article 26.00 for more detailed information and explanatory notes. The following standards apply to single family dwellings, churches, fire stations and schools:

Minimum Lot Area	14,000 square feet
Minimum Lot Width	100 feet
Maximum Height of Principal Structure	28 feet
Minimum Setbacks	
Front	30 feet (measured from front lot line)
Side	10 ft.
Both Sides	20 ft.
Rear	35 ft.
Side Street	20 ft.

All other uses in the Agricultural district shall be setback one hundred (100) feet from any property line.

C. Residential Open Space Development

Residential open space developments may be permitted in the Agricultural District as a means to achieve the basic intent of this district, in accordance with Article 25.00.

ARTICLE 14.00

RA-1, RA-2, RA-3, RA-4, SINGLE FAMILY AND TWO FAMILY RESIDENTIAL DISTRICTS

Section 14.01 -- STATEMENT OF PURPOSE

The intent of the Residential Districts is to primarily provide for single family and two family detached residential development. The RA-1, RA-2, RA-3, and RA-4 Districts have different minimum area, density, and building placement requirements to provide different housing types to accommodate the varied needs of the population.

It is further the intent of these Districts to permit a limited range of uses that are related to and compatible with residential land use, and which would contribute to the richness and stability of neighborhoods. Uses that would interfere with the quality of single family residential life are prohibited in these Districts.

Section 14.02 -- PERMITTED USES AND STRUCTURES

A. Principal Uses and Structures

In all areas zoned RA-1, RA-2, RA-3, or RA-4, no buildings shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal permitted uses:

1. Single family detached dwellings.
2. Two family detached dwellings in the RA-4 District only.
3. Public or semi-public cultural facilities.
4. Fire Stations.
5. Schools.
6. Parks.
7. Adult foster care family home, as defined in “Residential Care Facilities” in Section 2.02.
8. Family day care, as defined in “Residential Care Facilities” in Section 2.02.
9. Foster family group home, as defined in “Residential Care Facilities” in Section 2.02.
10. Foster family home, as defined in “Residential Care Facilities” in Section 2.02.

B. Accessory Uses and Structures

The following uses and structures accessory to principal uses and structures in the RA-1, RA-2, RA-3, or RA-4 Districts shall be permitted, subject to the provisions in Section 3.03:

1. Home occupations, subject to the provisions in Section 3.06.

2. Signs, subject to the provisions in Article 8.00.

3. Off-street parking, subject to the provisions in Article 5.00.

4. Uses and structures incidental to and customarily associated with single family detached dwelling units, such as private garages.

5. The keeping of not more than two (2) boarders by a resident family.

6. Small Wind Energy Systems.

C. Permitted Uses with Special Standards

In all areas zoned RA-1, RA-2, RA-3, or RA-4, the following uses are permitted, subject to the conditions specified for each use as set forth in Article 9.00.

1. Two family dwellings (RA-4 District only), subject to the provisions in Section 9.03, subsection A.

2. Recreation facilities such as playgrounds, campgrounds, and swim clubs, subject to the requirements in Section 9.02 L.

D. Conditional Land Uses

The following uses may be permitted by the City Council, upon recommendation of the Planning Commission, subject to the conditions specified for each use; review and approval of the site plan by the City Council; any special conditions imposed by the City Council that are necessary to fulfill the purposes of this Ordinance; and the procedures and requirements set forth in Article 28.00.

1. Bed and breakfasts.

2. Public and private libraries.

3. Places of worship.

4. Adult foster care facility, as defined in “Residential Care Facilities” in Section 2.02.

5. Adult foster care large group home, as defined in “Residential Care Facilities” in Section 2.02.

6. Adult foster care small group home, as defined in “Residential Care Facilities” in Section 2.02.

7. Child care centers, as defined in “Residential Care Facilities” in Section 2.02.

8. Golf courses. Golf courses located in single family zoning districts may include Golf Driving Ranges as an accessory use.

9. Group day care home, as defined in “Residential Care Facilities” in Section 2.02 that have operating hours before 7am and after 6pm.

10. Private and nonprofit social service agencies.

11. Accessory buildings and uses of a religious organization where no worship services are conducted.

12. Off street parking lots, subject to the provisions of Section 9.02 N.

13. Recycling center collection stations.

14. Wireless Reception Facilities, subject to the provisions in Section 3.16.

15. Public Utility Facilities, subject to the provisions in Section 9.02 K.

Section 14.03 -- DEVELOPMENT STANDARDS

A. Site Plan Review

Site plan review and approval is required, in accordance with Article 27.00.

B. Area, Height, Bulk, and Placement Regulations

Buildings and uses in the RA-1, RA-2, RA-3, and RA-4 Districts are subject to the area, height, bulk and placement requirements in Article 26.00, Schedule of Regulations.

The following charts summarize the regulations in Article 26.00, but the user is advised to refer to Article 26.00 for more detailed information and explanatory notes.

1. **RA-1 District Regulations**

Minimum Lot Area	12,000 square feet
Minimum Lot Width	80 feet
Maximum Height of Principal Structure	28 feet
Minimum Setbacks	
Front	30 feet (measured from front lot line)
Side	8 ft.
Both Sides	20 ft.
Rear	30 ft.
Side Street	20 ft.

2. **RA-2 District Regulations**

Minimum Lot Area	9,000 square feet
Minimum Lot Width	70 feet
Maximum Height of Principal Structure	28 feet
Minimum Setbacks	
Front	30 feet (measured from front lot line)
Side	8 ft.
Both Sides	20 ft.
Rear	30 ft.
Side Street	20 ft.

3. **RA-3 District Regulations**

Minimum Lot Area	7,200 square feet
Minimum Lot Width	60 feet
Maximum Height of Principal Structure	28 feet

Minimum Setbacks	
Front	25 feet (measured from front lot line)
Side	7 ft.
Both Sides	16 ft.
Rear	25 ft.
Side Street	15 ft.

4. **RA-4 District Regulations (1 family)**

Minimum Lot Area	7,200 square feet
Minimum Lot Width	60 feet
Maximum Height of Principal Structure	28 feet
Minimum Setbacks	
Front	25 feet (measured from front lot line)
Side	7 ft.
Both Sides	16 ft.
Rear	25 ft.
Side Street	15 ft.

5. **RA-4 District Regulations (2 family)**

Minimum Lot Area	9,000 square feet
Minimum Lot Width	60 feet
Maximum Height of Principal Structure	28 feet
Minimum Setbacks	
Front	25 feet (measured from front lot line)
Side	7 ft.
Both Sides	16 ft.
Rear	25 ft.
Side Street	15 ft.

C. Planned Unit Development

Planned unit development may be permitted in the RA-1, RA-2, RA-3, or RA-4 Districts as a means to achieve the basic intent of this district, in accordance with Article 24.00.

D. Residential Open Space Development

Residential open space developments may be permitted in the RA-1, RA-2, RA-3, or RA-4 districts as a means to achieve the basic intent of this district, in accordance with Article 25.00.

ARTICLE 15.00

RESIDENTIAL B – MULTIPLE FAMILY RESIDENTIAL DISTRICT

Section 15.01 -- STATEMENT OF PURPOSE

The intent of the Residential B – Multiple Family Residential District is to address the varied housing needs of residents by providing areas for attached housing at a higher density than is permitted in any of the Residential Districts. It is intended that multiple family housing: 1) be designed with essential services, such as public water and sewer, and outdoor recreation space and recreation facilities; 2) have access to roads that can adequately handle the traffic generated by such uses; and 3) be designed to be compatible with surrounding uses, especially when a Multiple Family Residential District serves as a transitional use between single family residential development and more intensive development.

Section 15.02 -- PERMITTED USES AND STRUCTURES

A. Principal Uses and Structures

In all areas zoned Residential B, no buildings shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal permitted uses:

1. Fire Stations.
2. Schools.
3. Parks
4. Social Service Agencies

B. Accessory Uses and Structures

The following uses and structures accessory to principal uses and structures in the Residential B District shall be permitted, subject to the provisions in Section 3.03:

1. Home occupations, subject to the provisions in Section 3.06.
2. Signs, subject to the provisions in Article 8.00.
3. Off-street parking, subject to the provisions in Article 5.00.
4. Uses and structures incidental to the primary use.
5. Small Wind Energy Systems.

C. Permitted Uses with Special Standards

In all areas zoned Residential B District, the following uses are permitted, subject to the conditions specified for each use as set forth in Article 9.00.

1. Multiple family dwellings, subject to the provisions in Section 9.03 A.

2. Two family dwellings, subject to the provisions in Section 9.03 A.

3. Recreation Facilities such as parks, playgrounds, campgrounds, and swim clubs, subject to the requirements in Section 9.02 M.

4. Senior apartments and elderly housing complexes, as defined in "Housing for the Elderly" in Section 2.02, subject to the provisions in Section 9.03 A.

5. Congregate housing and dependent housing facilities, as defined in "Housing for the Elderly" in Section 2.02, subject to the provisions in Section 9.02 I.

6. Residential Inpatient Treatment subject to the provisions in Section 9.02 I.

D. Conditional Land Uses

The following uses may be permitted by the City Council, upon recommendation from the Planning Commission, subject to the conditions specified for each use; review and approval of the site plan by the City Council; any special conditions imposed by the City Council that are necessary to fulfill the purposes of this Ordinance; and the procedures and requirements set forth in Article 28.00.

1. Bed and breakfasts.

2. Public and private libraries.

3. Places of worship.

4. Adult foster care family home, as defined in "Residential Care Facilities" in Section 2.02.

5. Adult foster care facility, as defined in "Residential Care Facilities" in Section 2.02.

6. Adult foster care large group home, as defined in "Residential Care Facilities" in Section 2.02.

7. Adult foster care small group home, as defined in "Residential Care Facilities" in Section 2.02.

8. Child care centers, as defined in "Residential Care Facilities" in Section 2.02.

9. Family day care, as defined in "Residential Care Facilities" in Section 2.02.

10. Foster family group home, as defined in "Residential Care Facilities" in Section 2.02.

11. Foster family home, as defined in "Residential Care Facilities" in Section 2.02.

12. Golf courses. Golf courses located in the Multiple Family Residential zoning district may include golf driving ranges as an accessory use.

13. Group day care home, as defined in "Residential Care Facilities" in Section 2.02 and operating before 7:00am and after 6pm.

14. Off street parking lots, subject to the provisions of Section 9.02 N.

15. Transitional housing.

16. Day Shelters.

17. Private and nonprofit social service agencies.

18. Single family dwellings.

19. Wireless Reception Facilities, subject to the provisions in Section 3.16.

20. Public Utility Facilities, subject to the provisions in Section 9.02, subsection K.

21. Housing for clients and ancillary offices of private, nonprofit social service agencies.

22. Clubs and Fraternal Organizations.

Section 15.03 -- DEVELOPMENT STANDARDS

A. Site Plan Review

Site plan review and approval is required, in accordance with Article 27.00.

B. Area, Height, Bulk, and Placement Regulations

Buildings and uses in the Residential B District are subject to the area, height, bulk and placement requirements in Article 26.00, Schedule of Regulations.

The following charts summarize the regulations in Article 26.00, but the user is advised to refer to Article 26.00 for more detailed information and explanatory notes.

1. **1 or 2 Family Residences and Boarding Houses with 3-8 Boarders**

Minimum Lot Area	7,200 square feet
Minimum Lot Width	60 feet
Maximum Height of Principal Structure	28 feet
Minimum Setbacks	
Front	25 feet (measured from front lot line)
Side	5 ft.
Both Sides	14 ft.
Rear	25 ft.
Side Street	10 ft.
Minimum Gross Floor Area	Shall comply with the requirements in Table 9.2

2. **Multiple Family Dwellings with 3-6 units and Boarding Houses with 9 or more boarders**

Minimum Lot Area	10,000 square feet
Minimum Lot Width	70 feet
Maximum Height of Principal Structure	28 feet
Minimum Setbacks	
Front	25 feet (measured from front lot line)
Side	10 ft.

Both Sides	20 ft.
Rear	25 ft.
Side Street	15 ft.
Minimum Gross Floor Area	Shall comply with the requirements in Table 9.2

3. **Multiple Family Dwellings with 7 or more units and all other permitted uses**

Minimum Lot Area	10,000 square feet
Minimum Lot Width	70 feet
Maximum Height of Principal Structure	28 feet
Minimum Setbacks	
Front	25 feet (measured from front lot line)
Side	25 ft.
Both Sides	50 ft.
Rear	25 ft.
Side Street	25 ft.
Minimum Gross Floor Area	Multiple Family Dwellings shall comply with the requirements in Table 9.2.

C. Planned Unit Development

Planned unit development may be permitted in the Residential B District as a means to achieve the basic intent of this district, in accordance with Article 24.00.

ARTICLE 16.00

RESIDENTIAL D – MOBILE HOME PARK DISTRICT

Section 16.01 -- STATEMENT OF PURPOSE

The Residential D – Mobile Home Park District is intended to provide for the location and regulation of mobile home parks. It is intended that mobile home parks be provided with necessary community services in a setting that provides a high quality of life for residents. These districts should be located in areas where they will be compatible with adjacent land uses.

The regulations established by state law (Michigan Public Act 96 of 1987, as amended) and the Manufactured Housing Commission Rules govern all mobile home parks. When regulations in this Article exceed the state law or the Manufactured Housing Commission Rules they are intended to insure that mobile home parks meet the development and preliminary plan standards established by this Article for other comparable residential development and to promote the health, safety and welfare of the City's residents.

Section 16.02 -- PERMITTED USES AND STRUCTURES

A. Principal Uses and Structures

In all areas zoned Residential D, no buildings shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal permitted uses:

1. Mobile Home Parks.
2. Fire Stations.
3. Schools.
4. Parks.

B. Accessory Uses and Structures

The following uses and structures accessory to principal uses and structures in the Residential D District shall be permitted, subject to the provisions in Section 3.03.C:

1. Signs, subject to the provisions in Article 8.00.
2. Off-street parking, subject to the provisions in Article 5.00.
3. Uses and structures incidental to the principal residential use.
4. Small Wind Energy Systems.

C. Permitted Uses with Special Standards

In all areas zoned Residential D District, the following uses are permitted, subject to the conditions specified for each use as set forth in Article 9.00.

1. Public Utility Facilities, subject to the provisions in Section 9.02 K.

D. Conditional Land Uses

The following uses may be permitted by the City Council, upon recommendation by the City Council, subject to the conditions specified for each use; review and approval of the site plan by the City Council; any special conditions imposed by the Planning Commission that are necessary to fulfill the purposes of this Ordinance; and the procedures and requirements set forth in Article 28.00.

1. Places of worship.

2. Wireless Reception Facilities, subject to the provisions in Section 3.16.

Section 16.03 -- DEVELOPMENT STANDARDS

A. Preliminary Plan Review

Pursuant to Section 11 of Michigan Public Act 96 of 1987, as amended, a preliminary plan shall be submitted to the City for review by the Planning Commission. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans.

In preparing the preliminary plan and when reviewing the plan, the following procedures and requirements shall apply, except where said procedures and requirements are superseded by requirements in Public Act 96 of 1987, as amended, or the Manufactured Housing Commission Rules.

1. Application Filing

Any person requesting any action or review under the provisions of this Ordinance shall file an application on the forms provided by the City. The information required shall be typed or legibly written on the form or on separate sheets attached to the form. The application should contain the following items:

1. Location and number of pads for mobile homes.
2. Typical distance between mobile homes.
3. Identification of typical minimum setbacks for mobile homes on each lot.
4. Average and range of size of mobile home lots. A typical site size illustration will suffice.
5. Density calculations (dwelling units per acre).
6. Sidewalks and trail locations and widths, if provided.
7. Location and names of roads and internal drives.
8. Community building location, if applicable.
9. Location and size of open areas.
10. Indication of type of recreation facilities proposed for recreation area, if any.

2. Optional Pre-Filing Conference

Applicants may request to meet with City staff, including any consultants designated by the City Council, to preliminarily review applications prior to filing. Such pre-filing conferences are intended to assist the applicant and facilitate the future review and approval of the application. However, no suggestions, recommendations, or other

comments made by City officials, staff or consultants at such conferences shall constitute approval of any application.

3. Planning Commission Action

The Planning Commission shall review all applications at a public meeting. The Planning Commission shall consider all recommendations of the staff and consultants. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Planning Commission shall take action on the preliminary plan within sixty (60) days after the City stamps a plan meeting all of the requirements of this section as being officially received. All applications that the Planning Commission has been charged with the authority to approve under the provisions of this Ordinance shall be approved, denied, or approved subject to conditions. The Planning Commission may table an application for further study or to obtain additional information, provided that final action is taken within the sixty (60) day review period.

4. Filing Fees

A filing fee to cover the cost of processing and reviewing the application shall accompany all applications. The filing fee and deposit shall be paid before the approval process begins.

A schedule of the current filing fees and deposit requirements is available in the Planning and Community Development Department office.

B. Minimum Requirements

Mobile home parks shall be subject to all the rules and requirements as established and regulated by Michigan law including, by way of example, Act 96 of 1987, as amended, and the Manufactured Housing Commission Rules and, in addition, shall satisfy the following minimum requirements:

1. Parcel Size for Overall Park

The minimum parcel size for mobile home parks shall be fifteen (15) acres.

2. Minimum Site Size

Mobile home parks shall be developed with an average site size of 5,500 sq.ft. Individual sites may be reduced to as small as 4,400 sq.ft. provided that for every square foot of land gained through such reduction, at least an equal amount of land shall be dedicated as open space for the collective use and enjoyment of all mobile home park residents. This open space shall be in addition to the open space required under the Manufactured Housing Commission Rules in effect at the time the proposal is submitted.

3. Setbacks

Mobile homes shall comply with the following minimum distances and setbacks:

a. For a home not sited parallel to an internal road, twenty (20) feet from any part of an adjacent mobile home that is used for living purposes for the entire year.

b. For a home sited parallel to an internal road, fifteen (15) feet from any part of an adjacent mobile home that is used for living purposes.

c. Seven (7) feet from any on-site parking space of an adjacent mobile home site per Rule 125.194 (2) (b) of the Manufactured Housing Commission Rules.

d. Ten (10) feet from any attached or detached accessory structure of an adjacent mobile home that may not be used for living purposes for the entire year.

e. Fifty (50) feet from any permanent community-owned structure such as community buildings or maintenance or storage facilities.

f. One hundred (100) feet from any baseball, softball or similar recreational field.

g. Twenty-five (25) feet from the fence of any swimming pool.

h. Ten (10) feet from the edge of an internal road, provided that such road is not dedicated to the public. Mobile homes and other structures in the Residential D District shall be set back at least twenty (20) feet from the right-of-way line of a dedicated public road within the mobile home park.

i. Seven (7) feet from any parking bay off a home site.

j. Seven (7) feet from a common sidewalk.

k. All mobile homes, accessory buildings and parking shall be set back not less than twenty (20) feet from any mobile home park boundary line, except that a minimum setback of fifty (50) feet shall be provided from existing and future right-of-way lines of abutting streets and highways contained in the city's adopted Master Thoroughfare Plan.

l. Fifty (50) feet from the edge of any railroad right-of-way.

m. Twenty-five (25) feet from a natural or man-made lake or waterway.

4. Maximum Height

Buildings in the Residential D district shall not exceed two (2) stories or thirty-five (35) feet in height, whichever is less; storage sheds or service buildings shall not exceed one (1) story or fifteen (15) feet in height, whichever is less.

5. Roads

Roads shall satisfy the minimum dimensional, design, and construction requirements in the Manufactured Housing Commission Rules except as follows:

a. Internal roads shall have access to a public thoroughfare or shall be connected to a public thoroughfare by a permanent easement. The easement shall be recorded before an internal road is approved by the Michigan Department of Consumer and Industry Services. Sole access by an alley is prohibited.

b. An internal road shall be constructed of concrete, bituminous asphalt, or, where permitted by local regulations, compacted road gravel in compliance with the standards of the American Association of State Highway and Transportation Officials (AASHTO). The community developer may use other suitable materials of equal quality if approved by the Michigan Department of Consumer and Industry Services.

6. Parking

a. All mobile home sites shall be provided with at least two (2) off-street parking spaces per Manufactured Housing Commission Rules.

b. In addition, a minimum of one (1) parking space for every three (3) mobile home sites shall be provided for visitor parking. Visitor parking shall be located within

500 feet of the home sites the parking is intended to serve. The 500 feet shall be measured along a sidewalk or street.

c. Common areas for the storage of boats, motorcycles, recreation vehicles, and similar equipment may be provided in a mobile home park, but shall be limited to use only by residents of the mobile home park. If proposed, the location of such storage areas shall be shown on the preliminary site plan.

No part of any such storage area shall be located in any required yard on the perimeter of the mobile home park. Such storage area shall be screened from view from adjacent residential properties with an opaque six (6) foot fence or wall in accordance with the requirements in Article 7.00, or a landscaped greenbelt. If a landscaped greenbelt is used, it shall consist of closely-spaced evergreen plantings (i.e., no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level at maturity.

Park owners who prohibit storage of boats, motorcycles, recreation vehicles, and similar equipment are not required to construct common areas for storage and parking. If boats, motorcycles, recreation vehicles and similar equipment are allowed in a park, park owners are required to provide storage for these vehicles.

7. Sidewalks

Concrete sidewalks having a minimum width of four (4) feet shall be provided on at least one side of collector streets in the mobile home park.

8. Accessory Buildings and Facilities

a. Accessory buildings and structures, including park management offices and public works facilities, storage buildings, laundry facilities, recreation or community facilities, and other accessory facilities, shall be designed and operated for use by residents of the park and their guests only.

b. Site-built buildings within a manufactured home park shall be constructed in compliance with the City of Midland Building Codes and shall require all applicable permits. Any addition to a mobile home unit that is not certified as meeting the standards of the U.S. Department of Housing and Urban Development for mobile homes shall comply with the City of Midland Building Codes.

c. If allowed by the management, each mobile home shall be permitted one storage shed or garage. The installation of any such shed or garage shall comply with the Michigan Residential Code.

9. Open Space

Open space shall be provided in any mobile home park containing fifty (50) or more mobile home sites. A minimum of two percent (2%) of the park's gross acreage shall be dedicated to well drained, usable open space, provided that a minimum of 25,000 square feet of contiguous open space shall be provided.

10. Landscaping

a. **Perimeter Screening**

All mobile home parks shall be screened from existing adjacent residential land use by either an opaque six (6) foot fence or wall, or a densely planted landscaped greenbelt.

If a landscaped greenbelt is used, it shall be a minimum of three (3) feet in height at the time of planting and shall form a complete visual barrier at maturity.

b. **Landscaping Adjacent to Road**
Landscaping adjacent to the road shall comply with the following requirements, which are consistent with landscaping required for other types of development in the City of Midland:

Type	Requirement
Deciduous or Evergreen Trees	1 per 40 lineal feet of road frontage
Shrubs	8 per 40 lineal feet of road frontage

c. **Site Landscaping**
A minimum of one (1) deciduous or evergreen tree shall be planted per two (2) mobile home sites. Deciduous trees shall be at least 2 ½ inches in caliper measured twelve (12) inches above grade. Evergreen trees shall be at least 5 feet in height.

d. **Parking Lot Landscaping**
Off-street parking lots containing more than fifteen (15) spaces shall be provided with at least ten (10) square feet of interior parking lot landscaping per space. Such areas shall measure at least one hundred fifty (150) square feet in area and shall be covered by grass, ground cover, shrubs or other live plant material. At least one (1) deciduous tree at least 2 ½ inches in caliper measured twelve (12) inches above grade shall be planted per parking lot landscape area.

11. Trash Dumpsters
If proposed, trash dumpsters shall comply with the following requirements:

a. Dumpsters shall be set back a minimum distance of fifty (50) feet from the perimeter of the mobile home park and at least fifteen (15) feet from any building, in a location that is clearly accessible to the servicing vehicle.

b. Dumpsters shall be screened on three sides with a masonry wall or wood fencing, not less than six (6) feet in height. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate at least six (6) feet in height.

c. Dumpsters shall be placed on a concrete pad which shall extend six (6) feet in front of the dumpster enclosure. Bollards (concrete filled metal posts) shall be installed at the opening of the dumpster enclosure to prevent damage to the screening wall or fence.

12. Water and Sewer Service
All mobile home parks shall be served by water and sewage systems, which shall meet the requirements of the Michigan Department Environmental Quality. The plumbing connections to each mobile home site shall be constructed so that all lines are protected from freezing, accidental bumping, or from creating any nuisance or health hazard. All

mobile home parks must also meet the requirements of Sections 11(2)(b), 11(4), and 11(6) of the Mobile Home Commission Act, Public Act 96 of 1987, as amended.

13. Storm Drainage

All developed portions of the mobile home park shall be served by adequate storm drainage facilities, designed and constructed in accordance with applicable requirements of Part 4 of the Michigan Department of Environmental Quality Mobile Home Parks and Seasonal Mobile Home Parks Rules.

14. Telephone and Electric Service

All electric, telephone, cable TV, and other lines within the park shall be underground.

15. Sale of Mobile Homes

New or pre-owned manufactured homes, which are to remain on-site in the manufactured housing community, may be sold by the resident, owner, or a licensed dealer or broker, provided that the manufactured housing development management permits the sale.

C. Planned Unit Development

Planned unit development may be permitted in the Residential D District as a means to achieve the basic intent of this district, in accordance with Article 24.00.

ARTICLE 18.00

HISTORIC PRESERVATION OVERLAY DISTRICT

Section 18.01 – STATEMENT OF PURPOSE

The intent of the Overlay District is to permit additions or changes to a resource, as defined in the Ordinance establishing the West Main Street Historic District, when such changes can be documented as being made in a historically appropriate manner.

The requirements of this Article shall apply to all lands within the boundaries of the Historic Preservation Overlay District, which has the same boundaries as the City of Midland West Main Street Historic District, as shown on the City of Midland Zoning Map. The provisions and restrictions of the underlying zoning district(s) shall apply in addition to the provisions and restrictions of this Article.

Section 18.02 – AREA, HEIGHT, AND PLACEMENT REGULATION

Within a Historic Preservation Overlay District, the following special area, height, and placement regulations shall apply in addition to or instead of the area, height, and placement regulations as provided in Article 26.00, Schedule of Regulations, of this Ordinance.

Any work defined as the construction, addition, alteration, repair or moving of a Historic Preservation Overlay District resource shall be permitted, provided:

1. Any deviations from required setbacks and other development standards resulting from the work can be documented as being an historically appropriate rehabilitation activity.

2. The work is approved by the local Historic District Commission, if the proposed work exceeds the minimum requirements of the underlying zoning district.

3. The work is not in conflict with other applicable local, state, or national codes.

ARTICLE 19.00

COMMUNITY DISTRICT

Section 19.01 -- STATEMENT OF PURPOSE

This district is for special public, quasi-public and private uses that are deemed to have special community significance.

Section 19.02 -- PERMITTED USES AND STRUCTURES

A. Principal Uses and Structures

In all areas zoned Community District, no buildings shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal permitted uses:

1. Colleges and universities.
2. Vocational and technical schools.
3. Fire Stations.
4. Offices for charitable organizations.
5. Airports.
6. Buildings or uses of special architectural significance to the City, when so designated by the City Council.
7. Civic centers.
8. Community centers, buildings and facilities.
9. Cultural facilities, such as museums, and art galleries.
10. Governmental administration offices.
11. Public and private libraries.
12. Hospitals.
13. Public fairgrounds.
14. Public service centers.
15. Sports stadiums and arenas.

16. Hospitality homes, when operated by a non-profit agency to serve as a temporary residence for patients who are receiving medical treatment elsewhere in the community, or their families.

17. Social service agencies, private and nonprofit.

18. Retreat centers.

19. Parks.

20. Golf Courses. Golf driving ranges are an acceptable accessory use.

21. Places of Worship.

B. Accessory Uses and Structures

The following uses and structures accessory to principal uses and structures in the Community District shall be permitted, subject to the provisions in Section 3.03:

1. Signs, subject to the provisions in Article 8.00.

2. Off-street parking, subject to the provisions in Article 5.00.

3. Uses and structures incidental to the primary use.

4. Special retail sales promotions and fairs and shows that may include incidental sales activities.

5. Adult educational programs; cultural and recreational activities; public and semi-public meetings and programs, public service club programs and events, and other uses traditionally occurring in school facilities. Secondary uses shall be provided with off-street parking in accordance with Article 5.00.

6. Small Wind Energy Systems.

C. Permitted Uses with Special Standards

In all areas zoned Community District, the following uses are permitted, subject to the conditions specified for each use as set forth in Article 9.00.

1. Public Utility Facilities, subject to the provisions in Section 9.02, subsection K.

2. Recreation facilities, subject to the provisions in Section 9.02, subsection L.

3. Day Shelter, subject to the provision of Section 9.02, subsection I.

4. Residential Treatment, subject to the provision of Section 9.02, subsection I

5. Transitional Housing, subject to the provision of Section 9.02, subsection I

D. Conditional Land Uses

The following uses may be permitted by the City Council, upon recommendation from the Planning Commission, subject to the conditions specified for each use; review and approval of the site plan by the City Council; any special conditions imposed by the City Council that are necessary to fulfill the purposes of this Ordinance; and the procedures and requirements set forth in Article 28.00.

1. Juvenile services facilities.

2. Cemeteries.

3. Correctional Facilities, subject to the provisions in Section 9.02 M.

4. Water and sewage treatment plants.

5. Wireless Reception Facilities, subject to the provisions in Section 3.16.

Section 19.03 -- DEVELOPMENT STANDARDS

A. Site Plan Review

Site plan review and approval is required for all uses in accordance with Article 27.00.

B. Area, Height, Bulk, and Placement Regulations

Buildings and uses in the Community District are subject to the area, height, bulk and placement requirements in Article 26.00, Schedule of Regulations.

The following chart summarizes the regulations in Article 26.00, but the user is advised to refer to Article 26.00 for more detailed information and explanatory notes.

Minimum Lot Area	12,000 square feet
Minimum Lot Width	100 feet
Maximum Height of Principal Structure	See footnote P in Article 26.00, Schedule of Regulations
Minimum Setbacks*	
Front	30 feet (measured from front lot line)
Side	25 ft.
Both Sides	50 ft.
Rear	25 ft.
Side Street	30 ft.

*Setbacks may change due to building height per footnote P in Article 26.00.

C. Planned Unit Development

Planned unit development may be permitted in the Community District as a means to achieve the basic intent of this district, in accordance with Article 24.00.

ARTICLE 20.00

OFFICE-SERVICE DISTRICT

Section 20.01 -- STATEMENT OF PURPOSE

The intent of the Office Service District is the accommodate administrative and professional offices, personal services businesses, and supporting retail uses, in an environment that reflects high standards of site planning and landscape design, recognizing that Office Service District uses may serve as transitional uses between single family residential development and more intensive development. Intensive retail commercial uses that generate large traffic volumes and high parking demand are not considered appropriate uses in the Office Service District.

Section 20.02 -- PERMITTED USES AND STRUCTURES

A. Principal Uses and Structures

In all areas zoned Office-Service District, no buildings shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal permitted uses:

1. Banks and credit unions.

2. Barber shops and beauty shops.

3. Business service establishments, limited to advertising, mailing, reproduction, commercial art, photography, stenographic services, personal supply services, computer programming, data processing, and other computer related services.

4. Professional offices, including but not limited to medical, legal, charitable, religious, insurance, real estate, manufacturing (no manufacturing activities permitted on-site), and financial.

5. Funeral homes

6. Interior decorator studios.

7. Music, art, and dance studios.

8. Photography studios.

9. Dry cleaning drop-off and pickup locations (no dry-cleaning activities may occur on-site in the OS district).

10. Radio and broadcasting studios and offices, without broadcasting towers.

11. Business schools.

12. Vocational, technical and trade schools.

13. Community Colleges.

14. Medical clinics.

15. Dental clinics.

16. Veterinary clinics.

17. Fire stations.

18. Schools.

19. Activity centers for the handicapped.

20. Residential inpatient treatment facilities.

21. Social service agencies, private and nonprofit.

22. Dwelling units on upper floors above business establishments

23. Parks.

24. Child Care Centers, as defined in "Residential Care Facilities" in Section 2.02.

25. Places of Worship.

B. Accessory Uses and Structures

The following uses and structures customarily accessory to principal uses and structures in the Office-Service District shall be permitted, subject to the provisions in Section 3.03:

1. Signs, subject to the provisions in Article 8.00.

2. Off-street parking, subject to the provisions in Article 5.00.

3. Uses and structures incidental to the primary use.

4. Pharmacies located in medical office buildings.

5. Sale and rental of durable medical supplies, when located in a medical office building.

6. Small Wind Energy Systems.

C. Permitted Uses with Special Standards

In all areas zoned Office-Service District, the following uses are permitted, subject to the conditions specified for each use as set forth in Article 9.00.

1. Nursing homes, subject to the provisions in Section 9.02.I.

2. Public Utility Facilities, subject to the provisions in Section 9.02.K.

D. Conditional Land Uses

The following uses may be permitted by the City Council upon recommendation from the Planning Commission, subject to the conditions specified for each use; review and approval of the site plan by the City Council; any special conditions imposed by the City Council that are

necessary to fulfill the purposes of this Ordinance; and the procedures and requirements set forth in Article 28.00.

1. Clubs and fraternal organizations.

2. Radio and television studios and offices, with broadcasting towers, subject to the standards in Section 3.16.

3. Dental, medical, and optical laboratories.

4. Wireless Reception Facilities, subject to the standards in Section 3.16.

5. Multiple-family dwellings, subject to the provisions in Section 9.03 A.

6. One and two family dwellings.

Section 20.03 -- DEVELOPMENT STANDARDS

A. Site Plan Review

Site plan review and approval is required in accordance with Article 27.00.

B. Area, Height, Bulk, and Placement Regulations

Buildings and uses in the Office-Service District are subject to the area, height, bulk and placement requirements in Article 26.00, Schedule of Regulations.

The following charts summarize the regulations in Article 26.00, but the user is cautioned to refer to Article 26.00 for more detailed information and explanatory notes.

Minimum Lot Area	7,200 square feet
Minimum Lot Width	60 feet
Maximum Height of Principal Structure	28 feet See footnote K in Article 26.00, Schedule of Regulations.
Minimum Setbacks	
Front	25 feet (measured from front lot line)
Side	7 ft.
Both Sides	16 ft.
Rear	25 ft.
Side Street	25 ft.

C. Planned Unit Development

Planned unit development may be permitted in the Office-Service District as a means to achieve the basic intent of this district, in accordance with Article 24.00.

ARTICLE 21.00

NC -NEIGHBORHOOD COMMERCIAL DISTRICT
CC - COMMUNITY COMMERCIAL DISTRICT
RC - REGIONAL COMMERCIAL DISTRICT
D - DOWNTOWN DISTRICT
D-O - DOWNTOWN OVERLAY DISTRICT
C - CIRCLE DISTRICT
DNO - DOWNTOWN NORTHSIDE OVERLAY DISTRICT

Section 21.01 -- STATEMENT OF PURPOSE

The intent of the Commercial Districts is to provide for a variety of commercial uses, including retail, office, restaurant, and service uses, to serve the needs of residents of the City and surrounding communities. The Zoning Ordinance provides for five Commercial Districts and two Overlay Districts, which vary based on the intended target market, the permitted intensity of use, and the range of products and services offered by permitted uses. It is intended that uses in the Commercial Districts exhibit high standards of site planning and landscape design so as to achieve compatibility with surrounding uses.

The purposes of the individual Commercial Districts are as follows:

NC - Neighborhood Commercial District

The purpose of the Neighborhood Commercial District is intended to provide locations for businesses that meet the day-to-day shopping and service needs of residents in surrounding neighborhoods. Wherever possible, Neighborhood Commercial uses should be designed to fit into the fabric of the surrounding neighborhood, by giving special consideration to site layout, building design, pedestrian orientation, traffic patterns, exterior lighting, and similar site and building characteristics. Intensive commercial uses that generate large volumes of traffic or that have other characteristics that would adversely affect the quality of surrounding residential areas are not appropriate in the Neighborhood Commercial District.

CC - Community Commercial District

The purpose of the Community Commercial District is to provide for commercial development that offers a broad range of goods and services to meet the convenience and comparison shopping needs of residents. Because of the variety of business types permitted in the CC District, special attention shall be focused on site layout, building design, vehicular and pedestrian circulation, and coordination of site features between adjoining uses. An effort should be made to achieve design compatibility between adjoining commercial uses.

RC – Regional Commercial District

The purpose of the Regional Commercial District is to provide for commercial development that offers a diversity of retail, service, entertainment, office, finance, and related business uses to serve the needs of residents of the City and region. The Regional Commercial District is intended to be the City's most intensive, vehicle-oriented commercial district. Consequently, Regional Commercial uses should be served by or have access to major or minor thoroughfares and the uses should be buffered from or located away from residential uses. Because of the prominence of Regional Commercial uses, high standards of site planning and landscape design are desired.

D – Downtown District & D-O – Downtown Overlay

The Downtown District is intended to be a compact, lively, pedestrian-oriented District that offers a wide diversity of commercial, office, civic, cultural, entertainment, recreation, residential, and tourism uses. Building design and layout should be based on traditional design principles, with architectural features that create visual interest. Primary building entrances should be physically and visually oriented toward streets. The D-O, Downtown Overlay, is intended to promote a vibrant traditional downtown environment, along Main Street between Jerome and George Streets. Residential development, particularly on the upper floors of retail and office buildings, is encouraged in the Downtown Overlay District. The D classification applies to more outlying areas in the Downtown where vehicle oriented uses exist in a less compact urban setting.

C – Circle District

The Circle District is intended to provide for the continued use, enhancement, and new development of retail, personal service, and related commercial uses in the Ashman Circle business district. Residential use is encouraged on the upper floors of retail and office buildings and in townhouses. Businesses in the Circle District are intended primarily to meet the day-to-day shopping and service needs of residents in surrounding neighborhoods and the broader community. Intensive commercial uses that would adversely affect the quality of surrounding residential areas are not appropriate in the Circle District.

DNO – Downtown Northside Overlay District

The purpose of the Midland Downtown Northside Overlay District is to provide specific regulations to achieve the following:

1. Facilitate redevelopment of the district as a fully integrated, mixed-use, pedestrian-oriented environment with mixed-use buildings that contain commercial, residential and office uses.
2. Provide for a variety of housing types that include a more-urban alternative to single family detached, including townhouses, apartments above commercial uses and live-work units.
3. Calm traffic traveling through the City to create a more pedestrian-friendly environment and improve pedestrian linkages to the Downtown.
4. Regulate building height and placement to achieve appropriate scale along streetscapes and ensure proper transition between the downtown and surrounding neighborhoods.
5. Establish clear controls on building form and placement to frame a well-defined public realm comprised of human-scale streets, neighborhoods and public spaces, all of which contribute to creating a safe, comfortable and livable environment.
6. Create a more pedestrian-oriented development pattern by placing storefronts near the sidewalk, locating parking in the side, or rear yard and limiting auto-oriented uses such as drive-throughs.

The Downtown Northside Overlay District is an overlay district that applies over the existing underlying zoning. The existing underlying zoning of a property is not changed nor is any legal use at the time of adoption of the overlay district made illegal or nonconforming. Not until such time as the property changes use or is redeveloped do the provisions of the overlay district become required.

Section 21.02 -- PERMITTED USES AND STRUCTURES

A. Table of Permitted Uses

In all areas zoned NC, CC, RC, D, D-O, C and DNO no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the uses listed in the Table of Permitted Uses (Table 21.1 located on page 21-4).

B. Accessory Uses and Structures

Uses and structures accessory to principal uses and structures in the NC, CC, RC, D, D-O, C and DNO Districts shall be permitted, subject to the provisions in Section 3.03.

C. Permitted Uses with Special Standards

In all areas zoned NC, CC, RC, D, D-O, C and DNO, the uses indicated in the following table as permitted uses with special standards are permitted, subject to the conditions specified for each use as set forth in Article 9.00.

D. Conditional Land Uses

The uses indicated in the following table as conditional land uses may be permitted by the City Council, upon recommendation by the Planning Commission, subject to the conditions specified for each use; review and approval of the site plan by the City Council; any special conditions imposed by the City Council that are necessary to fulfill the purposes of this Ordinance; and the procedures and requirements set forth in Article 28.00.

E. Uses Not Cited by Name

The Director of the Planning and Community Development Department shall have the authority to determine if a use which is not cited by name as a permitted use in the NC, CC, RC, D, D-O, C and DNO Districts as specified in Section 3.08 of the Ordinance.

TABLE 21.1: TABLE OF PERMITTED USES								
	Districts Where Permitted							
Use	**D**	**D-O**	**DNO**	**C**	**NC**	**CC**	**RC**	**Comments**
P = Principal Permitted Use S = Principal Permitted Use with Site Development Standards, see Article 9.00 C = Conditional Land Use, see Article 28.00 C/S = Conditional Land Use with Special Standards, see Article 9.00 and Article 28.00 A = Accessory use, subject to the provisions in Section 3.03 No Symbol = Use is not permitted								
AUTOMOTIVE USES								
Auto parts sales						S	S	
Automobile filling station	C/S				C/S	S	S	Any such use shall be subject to the provisions in Section 9.02, subsection C.
Automobile or vehicle dealership						C	P	
Automobile repair garage, major						P	P	Any such use shall be subject to the provisions in Section 9.02, subsection C
Automobile repair garage, minor						P	P	Any such use shall be subject to the provisions in Section 9.02, subsection C
Automobile service stations						S	S	Any such use shall be subject to the provisions in Section 9.02, subsection C
Automobile wash						S	S	Any such use shall be subject to the provisions in Section 9.02, subsection D
Muffler sales					C/S	S	S	Any such use shall be subject to the provisions in Section 9.02, subsection C
Tire Sales					C/S	S	S	Any such use shall be subject to the provisions in Section 9.02, subsection C
COMMERCIAL USES								
Adult Regulated Uses							C	Any such use shall be subject to the provisions in Section 9.02, subsection A
Banks and credit unions	P	P	P	P	P	P	P	
Banks and credit unions with drive up windows	P	P	C	P	P	P	P	
Banquet and conference/meeting facilities	P	P	P			P	P	
Barber shops and beauty shops	P	P	P	P	P	P	P	
Bed and breakfasts	P	P	P	P				
Business service establishments, limited to advertising, mailing, reproduction, commercial art, photography, stenographic services, personal supply services, computer programming, data processing, and other computer related services	P	P	P	P		P	P	
Car Rental Establishments						C	P	

TABLE 21.1: TABLE OF PERMITTED USES								
	Districts Where Permitted							
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P = Principal Permitted Use S = Principal Permitted Use with Site Development Standards, see Article 9.00 C = Conditional Land Use, see Article 28.00 C/S = Conditional Land Use with Special Standards, see Article 9.00 and Article 28.00 A = Accessory use, subject to the provisions in Section 3.03 No Symbol = Use is not permitted								
Convenience stores	P	P	P	P	P	P	P	
Dressmaking/Tailoring	P	P	P	P	P	P	P	
Dry cleaning drop-off and pickup locations	P	P	P	P	P	P	P	No dry cleaning processing activity may occur on-site
Funeral homes	P				P	P	P	
Greeting card and gift stores	P	P	P	P	P	P	P	
Grocery Store	C	C	C	P	P	P	P	
Hardware, floor covering, paint, kitchen and bath store	P	P	P	P	P	P	P	Not larger than 20,000 sq. ft. in gross floor area - larger stores shall be considered a home improvement center.
Home improvement center				P		C	P	Lumber yards are permitted as an accessory use, except in the C District
Hotels	P	P	P			P	P	
Motels						P	P	
Interior decorator studios	P	P	P	P	P	P	P	
Music, art, and dance studios	P	P	P	P	P	P	P	
Outdoor sales and display of merchandise, vehicles, boats, trailers, modular homes and other buildings, and swimming pools						C	P	
Outdoor sales of nursery stock, garden supplies, and produce						C	P	
Personal service establishments	P	P	P	P	P	P	P	
Pet shops	P	P	P	P		P	P	
Pharmacies and drug stores without drive up windows	P	P	P	P	P	P	P	
Pharmacies and drug stores with drive up windows	P	P	C	P	P	P	P	
Photographic studios	P	P	P	P	P	P	P	
Radio and television studios and offices, with broadcasting towers						C/S	C/S	Any such use shall be subject to the provisions in Section 3.16.
Radio and television studios and offices, without broadcasting towers	P		P			P	P	

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Repair service establishments, limited to small appliances, radio, TV, computer, jewelry, watches, upholsterer, shoe repair, and locksmith				P	P	P	P	
Repair service establishments of all types						P	P	Does not include repair of automobiles or other vehicles.
Restaurant, bar/lounge	P	P	P	P	P	P	P	
Restaurant, carry out	P	P	P	P	P	P	P	
Restaurant, with drive-in or drive-up windows						C/S	C/S	Any such use shall be subject to the provisions in Section 9.02, subsection G
Restaurant, standard	P	P	P	P	P	P	P	
Restaurant with outdoor seating	P	P	P	P	C	P	P	Shall not have outdoor music speakers.
Retail sales in an enclosed building	P	P	P	P	P	P	P	
Retail Strip Centers				P	P	P	P	Not larger than 20,000 sq. ft. in gross floor area in NC
Self-serve laundries	P		P		P	P	P	
Shopping Centers			P			P	P	
LIGHT INDUSTRIAL USES								
Beverage bottling							C	
Bus and truck storage and repair							C	
Commercial bakeries	C		C	C			P	
Commercial Printing and publishing establishments	C		C			C	C	
Contractor's yards							C	
Dispatch Center							P	Limited to one tow truck and no vehicle storage.
Dry cleaners including processing						P	P	
Lumber yards							C	
Mini-warehouses, Self storage facilities							S	Any such use shall be subject to the provisions in Section 9.02, sub-section H
Processing of preprocessed and previously manufactured goods							C	
Solar Facilities							P	
Taxi and bus dispatch centers, not including storage or repair terminals						C	P	

TABLE 21.1: TABLE OF PERMITTED USES								
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Warehousing							C	
Wholesale and distributing establishments							C	
OFFICE/MEDICAL USES								
Dental clinics	P	P	P	P	P	P	P	
Medical clinics	P	P	P	P	P	P	P	
Veterinary clinics	P		P	P	P	P	P	No outdoor kennels are permitted
Dental, medical, and optical laboratories	P	P	P	P	P	P	P	
Offices	P	P	P	P	P	P	P	
Social Service Agencies	P			P	P	P	P	
PUBLIC/INSTITUTIONAL USES								
Adult foster care facility	C		C	C				As defined in “Residential Care Facilities” in Section 2.02
Adult foster care small group home	C		C	C				As defined in “Residential Care Facilities” in Section 2.02
Adult foster care large group home	C		C	C				As defined in “Residential Care Facilities” in Section 2.02
Child care centers	C		C	C	C	C	C	
Clubs and Fraternal Organizations	S		C/S	S	S	P	P	Shall be subject to the provisions in Section 9.02, subsection E.
Colleges and universities	P		P			P	P	Any such use shall not exceed 100,000 square feet of floor area
Community colleges	P		P			P	P	Any such use shall not exceed 100,000 square feet in floor area
Cultural facilities	P	P	P	P	C	C	C	
Day Shelter							S	
Fire stations	P			P	P	P	P	
Governmental administration offices	P	P	P	P	P	P	P	
Housing for the elderly	C/S		C/S	C/S				Any such use shall be subject to the provisions in Section 9.02, subsection I
Parks	P	P	P	P	P	P	P	
Public and private libraries	P	P	P	C	C	C	C	
Public utility facilities	C/S		C/S	C/S				Any such use shall be subject to the provisions in Section 9.02, subsection K
Recycling collection station						C	C	

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Residential treatment facilities							S	
Retreat centers	C		C	C		P	P	
Transitional housing							S	
Vocational, technical, primary, secondary, and trade schools						P	P	Such schools may only offer instruction in uses otherwise permitted in the district.
Vocational, technical, primary, secondary, and trade schools	P			P				Such schools may only offer instruction in uses otherwise permitted in the district, and may not be located on the first floor.
RECREATION/ENTERTAINMENT USES								
Arcade	S		S	S		S	S	Any such use shall be subject to the provisions in Section 9.02, subsection L
Campgrounds and outdoor recreation facilities						C/S	C/S	Any such use shall be subject to the provisions in Section 9.02, subsection L
Commercial amusements, indoor						C/S	C/S	Any such use shall be subject to the provisions in Section 9.02, subsection L
Commercial amusements, outdoor						C/S	S	Any such use shall be subject to the provisions in Section 9.02, subsection L
Health clubs and spas	P	P	P	P	P	P	P	No outdoor services
Theatres	P	P	P	P		P	P/C	Drive in theatres only permitted in RC via Conditional Use
RESIDENTIAL USES								
Boarding Houses	C		C	C				
Dwelling units on upper floors above business establishments and live/work units	S	S	P	S	S			
Multiple-family dwellings	S	S	P	S	S			Any such use shall be subject to the provisions in Section 9.03, subsection
Townhouses	S		P	S				Townhouses are not permitted on parcels with frontage on Ashman Circle. Any such use shall be subject to the provisions in Section 9.03, subsection A.
OTHER USES								
Parking structures	P	P	P	P		P	P	
Places of worship	C	C	C	P	P	P	P	

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Planned unit developments	S	S	S	S	S	S	S	Subject to the provisions of Article 24.00
Signs	A	A	A	A	A	A	A	Subject to the provisions of Article 8.00
Wireless communication facilities	C/S	C/S	C/S	C/S	C/S	C/S	C/S	Any such use shall be subject to the provisions in Section 3.16

Section 21.03 -- DEVELOPMENT STANDARDS

A. Site Plan Review

Site plan review and approval is required for all uses in accordance with Article 27.00.

B. Required Conditions for Uses in the NC and C Districts

Unless otherwise noted, buildings and uses in the NC (Neighborhood Commercial) and C (Circle) Districts shall comply with the following requirements:

1. All permitted retail or service establishments shall deal directly with customers. Manufacturing of products for wholesale distribution off of the premises is not permitted.

2. All business, services, or processing, except off-street parking and loading, shall be conducted within a completely enclosed building, unless otherwise specifically permitted.

3. There shall be no outside storage of any goods, inventory, or equipment. Any storage shall be clearly accessory to the principal permitted use.

4. Commercially used or licensed vehicles used in the normal operation of a permitted retail or service use on the site may be parked in the rear yard only. This provision shall apply to operable vehicles that are moved on and off of the site on a regular basis.

5. Parking or storage of damaged or disabled vehicles shall be prohibited. Vehicles parked on a site shall not be used principally for storage, sales, or advertising.

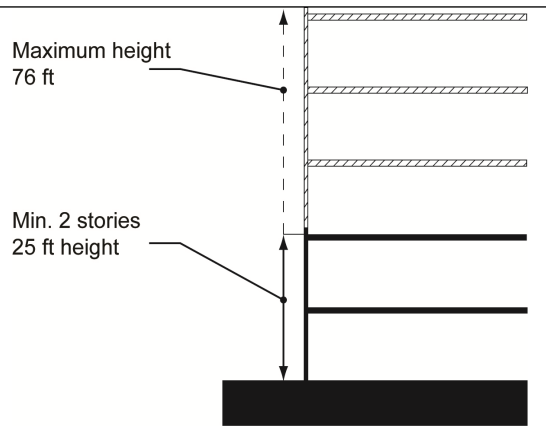
6. In the C District, no single use shall have more than 20,000 square feet in gross floor area.

7. All uses in the NC District shall comply with the hours of operation requirements as established in the City of Midland Code of Ordinances.

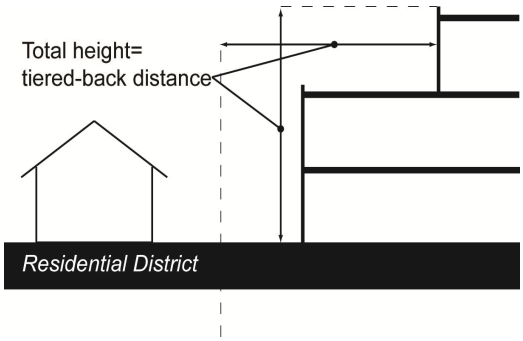
C. DNO Area, Height, Bulk, and Placement Regulations

1. **Building Height.** All buildings shall meet the following height requirements:

Minimum Building Height	2 stories and 25-foot minimum building height along the street frontage.
Maximum Building Height	76-foot maximum building height.

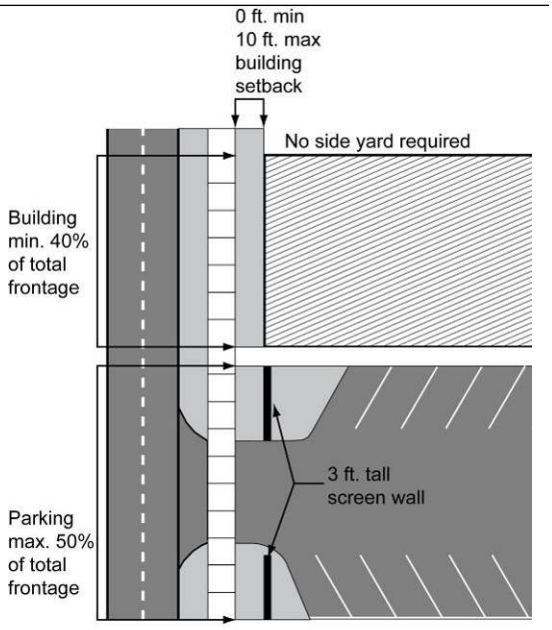


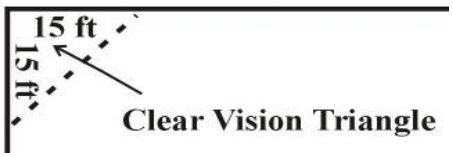
Adjacent Residential District	For buildings with more than 2 stories adjacent to a residential zoning district, the floors above the 2nd story shall be tiered-back so that the highest point of the building is setback from the adjacent residential district a distance at least equal to the height of the building.



2. **Building Placement.** All lots and buildings shall meet the following dimensional requirements:

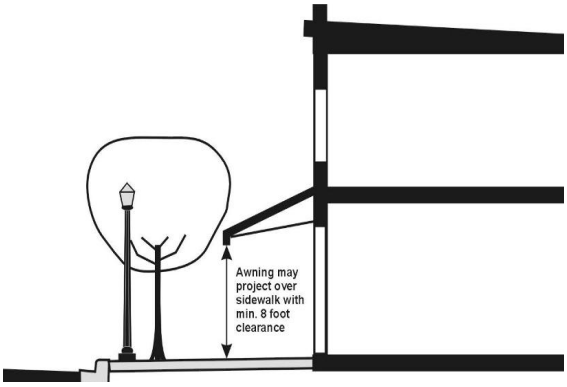
Building Frontage	Building façade shall occupy a minimum of 40% of the total lot frontage length between the min. and max. setback. This may include walls or other architectural features that are an extension of the building façade.
Front Yard	Minimum 0-foot, maximum 10-foot building front yard setback.(1)(2)
Side Yard	A zero side setback may be permitted where a fire barrier is provided along the side lot line.
Rear Yard	Minimum 15-foot rear yard building setback. Corner lots shall have 2 front yards, 2 side yards and no rear yard.
Parking	Off-street parking shall not be allowed between the building and sidewalk for at least 40% of the total lot frontage. Up to 50% of the frontage length to the side of the building may be occupied by off-street parking, provided a 3-foot screen tall wall is located between the sidewalk and parking lot. The remaining 10% may be pedestrian and landscape areas; or the building may occupy more frontage. For corner or through lots, frontage percentages shall be based upon the total cumulative of all street frontages.





(1) At the corner of two intersecting streets, a clear vision triangle shall be maintained with no structures between a height of 3 feet and 8 feet. The minimum triangle dimensions shall measure 15 feet along both road frontages.

(2) Awnings and canopies may project over the sidewalk, provided the awning or canopy is at least 8 feet above the sidewalk and does not project closer than 2 feet from the back of the street curb.



D. Planned Unit Development

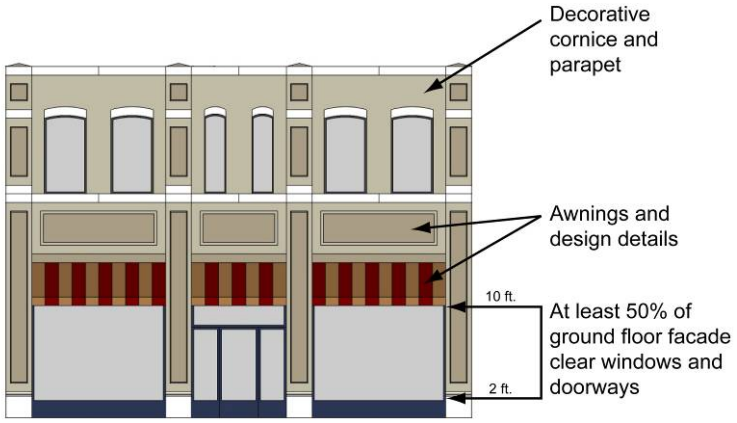
Planned unit development may be permitted in the NC, CC, RC, D, D-O, and C Districts as a means to achieve the basic intent of this district, in accordance with Article 24.00.

Section 21.04 -- DOWNTOWN NORTHSIDE OVERLAY DISTRICT DEVELOPMENT STANDARDS

A. Building Design Requirements

1. **General Commercial and Mixed-Use Buildings.** All commercial buildings and mixed-use buildings that contain non-residential and residential uses, such as retail on the ground floor, and residential on upper floors and live-work units, shall meet the following requirements.

General Commercial and Mixed-Use Buildings	
Front Façade	The front façade that faces a street or plaza shall include windows, cornice work, edge detailing and decorative finish materials.
Entrance	There shall be a minimum of one (1) usable pedestrian entrance along the front public sidewalk. Main pedestrian entrances shal have design details that enhance the appearance prominence o the entrance s that it is recognizable from the stree and parking areas.
Blank Walls	Blank walls (without windows) longer than 20 feet shall not face a street.
Garage Doors	Garage doors shall not be permitted on a front façade; except opening/doors for access to structured parking or rear yard parking are permitted.
Ground Floor	Between 2 and 10 feet above the sidewalk, at least 50% of the ground floor façade area facing a street shall be clear windows and doorways. This may be reduced to 30% where the first floor is occupied by an office use.

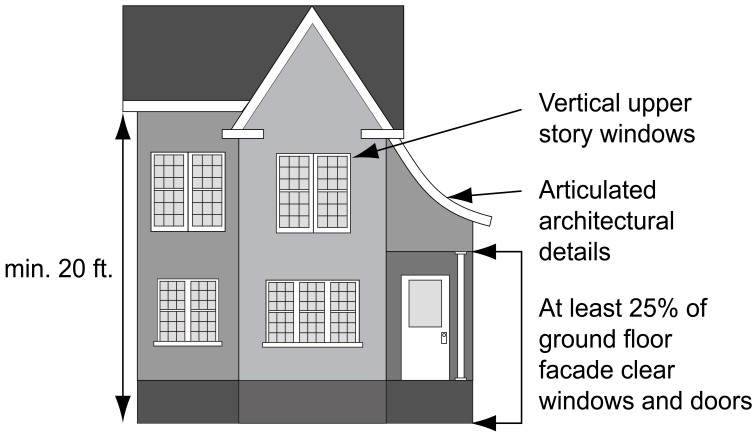


General Commercial and Mixed-Use Buildings	
Flat Roof Buildings	Buildings with a flat roof appearance from the street shall have a decorative cornice. Flat roofs shall be enclosed by parapets.
Pitched Roof Buildings	Buildings with a pitched roof shall be permitted where the eaves are at least 20 feet from the ground and the roof pitch is a minimum of 4:12.
Mechanical Equipment Screening	All rooftop HVAC mechanical mounted equipment shall be screened from view on all sides of the building. Parapets and other screening treatment shall use high quality building materials and shall blend with the design of the building in terms of color, materials, scale and height. Mechanical equipment on buildings with a pitched roof shall be on the back half of the building and shall be concealed, such that it is not visible from the ground.

2. **Cottage Shop Building.** Buildings that were originally constructed as single family residences and converted to a non-residential use or constructed to appear as residential conversions shall meet the following requirements.

Cottage Shop Building

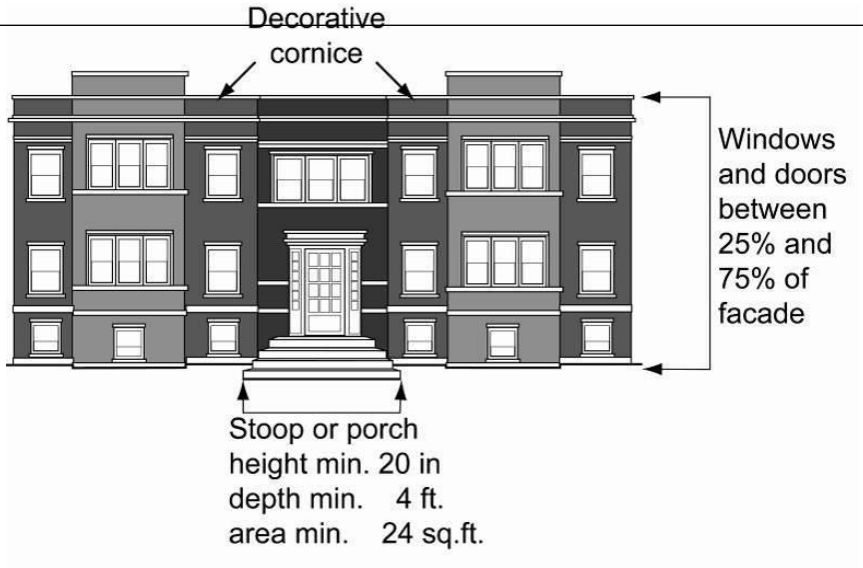
Front Façade



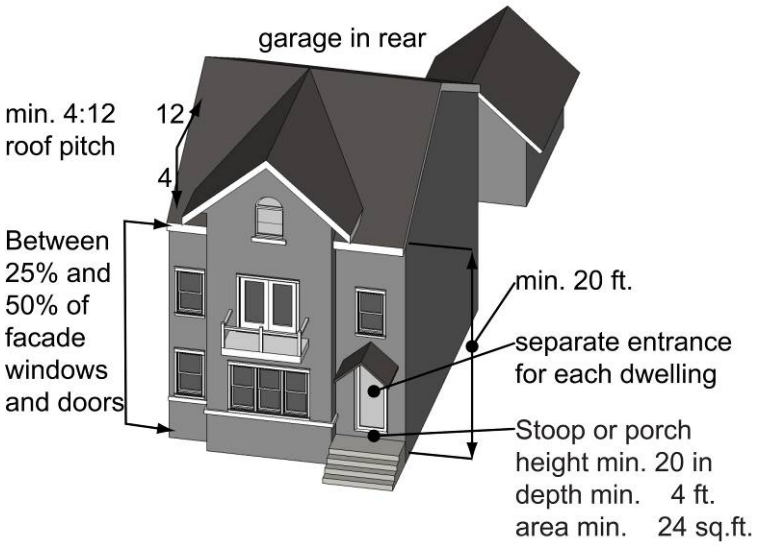
There shall be a minimum of one (1) usable pedestrian entrance along the front public sidewalk.

Garage Doors	Garage doors shall not be permitted on a front façade.
Ground Floor Windows and Doors	At least 25% of the ground floor façade facing a street shall be clear windows and doorways.
Upper Floor Windows	Windows above the first story shall be vertical in proportion.
Roof Design	Buildings with a pitched roof shall be permitted where the eaves are at least 20 feet from the ground and the roof pitch is a minimum of 4:12.

3. **Apartment Buildings.** Apartment buildings that contain only multiple-family dwellings shall meet the following design requirements. Multiple-family dwellings located in mixed-use buildings shall be subject to the general commercial/mixed-use building design requirements in section 21.04.A.1. Apartment buildings are considered buildings with common entrances - where multiple family dwellings have individual entrances, they shall be subject to the townhouse design standards of section 21.04.A.4 below.

Apartment		**Buildings**
Entrance	 There shall be a minimum of one pedestrian entryway facing the street or opening onto a courtyard facing the street.	
Front Stoop	A front stoop shall be allowed to project into the front yard. ADA-compliant access ramps that connect to the stoop may also project into the front yard.	
Windows and Doors	The front façade of all residential units shall be a minimum of 25% and a maximum of 75% windows and doors.	
Roof Design	Buildings with a flat roof appearance from the street shall have a decorative cornice. Buildings with a pitched roof shall be permitted where the eaves are at least 20 feet from the ground and the roof pitch is a minimum of 4:12.	
Parking and Carports	Off-street parking lots and carports or garages shall be located in the side or rear yard.	

4. **Townhouses.** Attached/townhouse dwellings shall meet the following design requirements. Townhouse dwellings are dwellings where each unit has an individual front entrance - multiple family dwellings with common entrances shall be subject to the apartment building design standards of section 21.04.A.3 above.

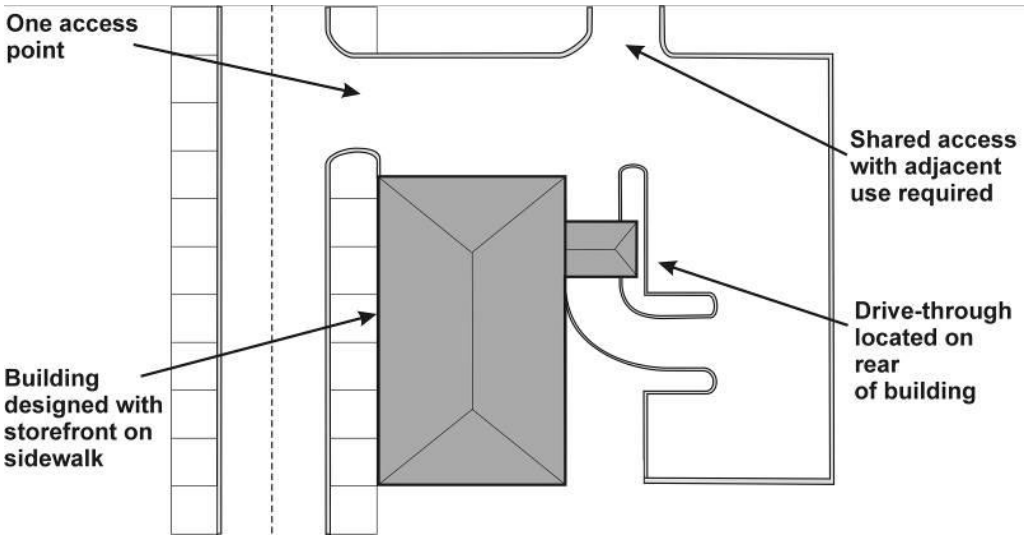


Townhouses	
Entrance	Each dwelling shall provide a separate pedestrian entryway facing the front lot line with direct access to the sidewalk by way of a front porch or stoop with steps.
Front Porch or Stoop	All dwellings shall include a front stoop or porch. The stoop or porch shall have a minimum depth of 4 feet and a minimum area of 24 square feet. Steps and ADA-compliant access ramps that connect to the stoop or porch may project into the front yard.
First Floor Elevation	The stoop or porch shall be elevated a minimum of 20 inches above the sidewalk grade. This may be waived for units designed to be accessible by persons with disabilities.
Windows and Doors	The front façade of all residential units shall be a minimum of 25% and a maximum of 50% windows and doors.
Roof Design	Buildings shall be designed with a pitched roof with eaves at least 20 feet from the ground and a minimum roof pitch of 4:12.
Garages	Attached or detached garages shall be located in the rear yard or on the rear side of the building and shall be accessed by a rear alley or drive.

5. **Accessory Drive-Through Uses.** Drive-through windows that are accessory to banks, retail uses such as pharmacies and service uses such as dry-cleaners shall meet the following design requirements.

Drive-Through Windows

Building	The building shall meet all of the design requirements for a general commercial building contained in section 21.04.A.1.
Drive-through Location	The drive-through shall be attached to the rear of the building. On corner lots, the drive-through shall be attached to the side of the building and setback from the street to at least 50% of the building length.
Number of Lanes	No more than one drive-through window, teller or lane shall be permitted on a building or site.
Access	No more than one (1) driveway shall be provided to a public street. The driveway shall be shared with an adjacent use or easements provided to allow future shared use.



B. Site Design Requirements

1. **Parking.** Each use shall be required to provide off-street parking in accordance with the following requirements:

   a. Off-street parking shall be required in accordance with Section 5.01, subject to paragraphs b. and c. below. Sites where the underlying zoning is D – Downtown District are not required to provide off-street parking.

   b. For mixed-use developments or parking shared between multiple uses, the amount of parking provided shall equal the sum of the parking required for each individual use; provided, however, the Planning Commission may authorize a reduction in the total number of required parking spaces where multiple uses can be adequately served by shared use of fewer parking spaces by reason of the characteristics of the land uses and differing time of peak parking demand.

   c. Uses on separate lots may enter into shared parking agreements. The parking may be provided on an adjacent lot or through an agreement with an off-site location.

   d. No parking space or maneuvering lane shall be permitted within ten (10) feet of any street property line.

   e. Off-street parking shall be located in the rear yard to the maximum extent practical. Parking may be permitted in the side yard where it is setback a distance equal to the building and a 3-foot tall screenwall that serves as an extension of the adjacent building is provided between the parking and the sidewalk in accordance with subsection 4.c. below.

   f. All parking lots shall provide sufficient bike parking based on a minimum of one (1) bike for every ten (10) automobile parking spaces.

2. **Driveway Access.** All driveways shall meet the requirements of Section 3.10. Where the driveway spacing standards cannot be met, driveways shall be located as close as possible to the center of the block, with consideration of alignment with driveways on the opposite side of the street. Shared access may be required with adjacent sites where the driveway spacing standards cannot be met. Easements shall be provided for shared access with adjacent sites or cross circulation between adjacent parking lots.

3. **Loading.** Off-street loading spaces shall be provided as required by Section 5.02. Waivers to loading space requirements may be granted by the Planning Commission for uses such as offices or banks where deliveries by truck will not be necessary. Loading and outdoor storage areas shall be located in the rear yard or within loading bays that are surrounded or enclosed by buildings or accessed from rear yard parking lots. On corner lots, the loading area may be located on the side of the building setback from the street to at least 50% of the building length.

4. **Landscaping and Screening.** Landscaping and screening shall be provided for as follows:

   a. **Street Trees.** One (1) street canopy tree shall be provided for each 40 feet of street frontage. Street trees shall be minimum 2½ inch caliper canopy trees.

b. **Parking Lot Landscaping.** Parking lots shall be landscaped in accordance with Section 6.02.F. Any portion of a parking lot that is setback more than 50 feet from the front lot line shall be exempt from the landscaping requirement. This exemption does not apply to buffer zones from adjacent residential zoning districts.

c. **Parking Lot Screening.** Where parking is visible from a street, landscaping shall be required between all parking lots and the street in accordance with Section 6.02.B. A 3-foot tall brick or stone screen wall shall be provided between the parking lot and the sidewalk instead of the earth berm required in Section 6.02. Wrought iron fencing or other similar ornamental fencing may be substituted for the 3-foot tall brick/stone wall, provided its design uses brick or stone piers and it is installed along with a continuous hedge row.

c. **Screening from Residential.** Where a parking lot is adjacent to a residential district or use, a 6-foot tall screen wall shall be provided between the parking lot and the residential district or use in accordance with Section 7.02. The screen wall shall be brick, stone, wood or other material compatible with the building and approved by the Planning Commission.

d. **Screening Greenbelt.** A 10-foot wide screening greenbelt shall be installed between any non-residential building and any adjacent residential zoning district in accordance with Section 6.02.D and E. No parking or maneuvering lanes shall be located within this greenbelt.

5. **Waste receptacles.** Waste receptacles shall be enclosed by a masonry wall meeting the requirements of Section 3.15. Multiple businesses may share a waste receptacle, provided there is a recorded agreement for shared use and maintenance.

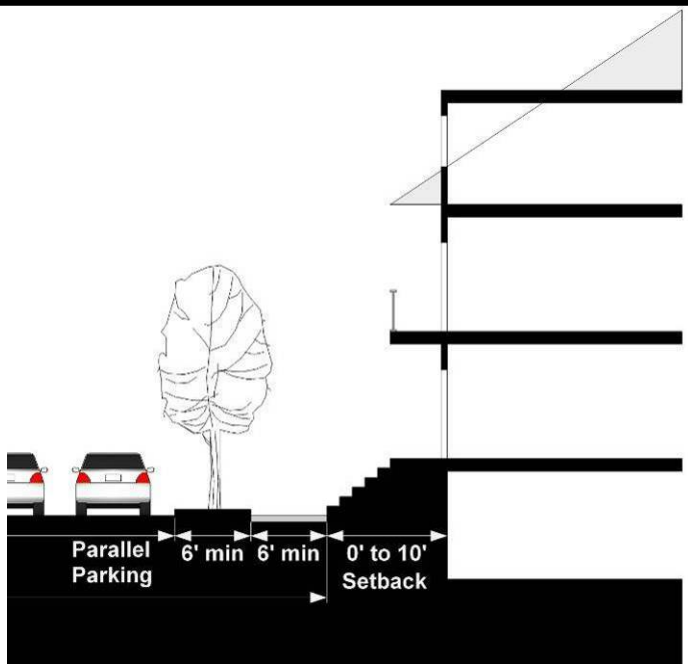
6. **Utilities.** All new or relocated utility lines shall be installed underground. Utility boxes shall be located where they do not create obstruction to sidewalks or intersection clear vision triangles.

7. **Cluster Mailboxes.** Cluster mailboxes for multi-tenant developments shall be located in common lobby areas or, when outdoors, in a rear or side yard.

C. **Streetscape Requirements.**

1. An applicant shall make all streetscape improvements outside of the street curb along the lot frontage as shown in the following cross sections, including sidewalks, curb-lawn landscaping, street trees and decorative street lights. However, the applicant shall not be required to make any improvements to the vehicular lanes located between the curbs for an existing public street. The following are typical street sections and may vary along their length based upon City engineering standards and available right-of-way.

Streetscape Requirements	
Sidewalk	Minimum 6 foot wide both sides.
Tree Zone	A minimum 6 foot long green strip shall be provided between the street and sidewalk for street trees. This area may be paved as additional sidewalk with tree grates and continuous tree-root trenches under the sidewalk.
Street lights	Decorative street lights based upon specifications provided by the City.
Street trees	Minimum one tree for each 40 feet of street frontage.
Parking	Parallel parking shall be allowed where the City engineer or MDOT determines that there is sufficient roadway width.



2. Sidewalk cafés shall be permitted on or adjacent to sidewalks; provided a minimum 6-foot wide un-obstructed pedestrian pathway is maintained along the sidewalk. Restaurants with outdoor seating shall not have outdoor speakers.

ARTICLE 22.00

LCMR -- LIMITED COMMERCIAL, MANUFACTURING AND RESEARCH DISTRICT

Section 22.01 -- STATEMENT OF PURPOSE

The intent of this district is to provide a mixed use office and industrial district for the needs of commerce, industry, and education in a campus style setting that reflects high standards for site planning and landscape design. The district permits a range of business, research and industrial uses as well as secondary uses that support and complement the permitted principal uses. No operations having external off-site impacts shall be located in the LCMR district.

Section 22.02 -- PERMITTED USES AND STRUCTURES

A. Principal Uses and Structures

In all areas zoned LCMR, no buildings shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal permitted uses:

1. Manufacturing activities, excluding the manufacture of food products, basic organic and inorganic chemicals, explosives, paints, varnishes and allied products, and petroleum refining.

2. Research, development and testing laboratories with processes up to and including pilot plant operations.

3. Offices for business, manufacturing, financial, insurance, legal, engineering, and management establishments.

4. Business service establishments, limited to advertising, mailing, reproduction, commercial art, photography, and stenographic services, personal supply services, computer programming, data processing, and other computer related services.

5. Fire stations.

6. Public and private libraries.

7. Places of Worship.

8. Medical and Dental Offices or Clinics.

9. Health spas, physical fitness clubs, and like establishments.

10. Child Care Center or Day Care Center as defined in "Residential Care Facilities" in Section 2.02.

11. Banks, savings and loans institutions, investment companies, credit unions, brokerage firms, and similar financial institutions.

12. Social Service Agencies

13. Solar Energy Generating Facilities

14. Places of Worship

15. Clubs and Fraternal Organizations

B. Accessory Uses and Structures

Uses and structures customarily incidental to principal uses and structures in the LCMR District shall be permitted, subject to the provisions in Section 3.03:

1. Storage and distribution of materials, clearly ancillary to the main use of the building or complex. Outdoor storage of equipment and finished materials is not permitted.

2. Signs, subject to the provisions in Article 8.00.

3. Off-street parking, subject to the provisions in Article 5.00.

4. Small Wind Energy Systems.

C. Permitted Uses with Special Standards

In all areas zoned LCMR, the following uses are permitted, subject to the conditions specified for each use as set forth in Article 9.00:

1. Public utility facilities, subject to the provisions in Section 9.02.K.

2. Colleges and universities, community colleges, and vocational schools, subject to the provisions in Section 9.02.F.

3. Residential Treatment, subject to the provisions of Section 9.02 I.

4. Transitional Housing, subject to the provisions of Section 9.02 I.

5. Day Shelter, subject to the provisions of Section 9.02 I.

D. Conditional Land Uses

The following uses may be permitted by the City Council, subject to the conditions specified for each use; review and approval of the site plan by the City Council; any special conditions imposed by the City Council that are necessary to fulfill the purposes of this Ordinance; and the procedures and requirements set forth in Article 28.00:

1. Wireless Reception Facilities, subject to the provisions in Section 3.16.

Section 22.03 -- DEVELOPMENT STANDARDS

A. Site Plan Review

Site plan review and approval is required in accordance with Article 27.00.

B. Area, Height, Bulk, and Placement Regulations

Buildings and uses in the LCMR District are subject to the area, height, bulk and placement requirements in Article 26.00, Schedule of Regulations.

The following chart summarizes the regulations in Article 26.00, but the user is advised to refer to Article 26.00 for more detailed information and explanatory notes. The following standards apply to single family dwellings, churches, fire stations and schools:

Minimum Lot Area	None
Minimum Lot Width	150 feet
Maximum Height	45 feet
Minimum Setbacks	
Front	20 feet (measured from front lot line)
Side	20 ft.
Both Sides	40 ft.
Rear	20 ft.
Side Street	20 ft.

C. Planned Unit Development

Planned unit development may be permitted in the LCMR district as a means to achieve the basic intent of this district, in accordance with Article 24.00.

ARTICLE 23.00

INDUSTRIAL DISTRICTS

Section 23.01 -- STATEMENT OF PURPOSE

The intent of the Industrial A and Industrial B Districts is to permit the use of land, buildings, and structures for the manufacturing, processing, fabricating, compounding, treatment, packaging and/or assembly of materials or goods, warehousing or bulk storage of goods, and related accessory uses. Related accessory uses may include, by way of example, research, design, and prototype development related to the industrial operations; the storage of goods in connection with or resulting from industrial operations; the sale of goods resulting from such operations; and, any work of administration or accounting in connection with the industrial operations.

The regulations in this Article provide for two industrial districts with the intent that the least intensive industrial operations having limited external off-site impacts should be located in the Industrial A District. More intensive industrial operations should be located in the Industrial B District, which is intended to be separated and buffered from residential and commercial districts.

Section 23.02 -- PERMITTED USES AND STRUCTURES

A. Table of Permitted Uses

In all areas zoned Industrial A or Industrial B, no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the uses listed in the following Table of Permitted Uses.

B. Accessory Uses and Structures

Uses and structures accessory to principal uses and structures in the Industrial A and Industrial B Districts shall be permitted, subject to the provisions in Section 3.03.

C. Permitted Uses with Special Standards

In all areas zoned Industrial A or Industrial B, the uses indicated in the following table as permitted uses with special standards are permitted, subject to the conditions specified for each use as set forth in Article 9.00.

D. Conditional Land Uses

The uses indicated in the following table as conditional land uses may be permitted by the City Council, upon recommendation from the Planning Commission, subject to the conditions specified for each use; review and approval of the site plan by the City Council; any special conditions imposed by the City Council that are necessary to fulfill the purposes of this Ordinance; and the procedures and requirements set forth in Article 28.00.

E. Uses Not Cited by Name

The Director of the Planning and Community Development Department shall have the authority to determine if a use which is not cited by name as a permitted use in the Industrial A or Industrial B zoning district as specified in Section 3.08 of the Ordinance.

Table 23.1: TABLE OF PERMITTED USES

Use	Districts Where Permitted		Comments
	A	B	
P = Principal Permitted Use S = Principal Permitted Use with Site Development Standards, see Article 9.00 C = Conditional Land Use, see Article 28.00 C/S = Conditional Land Use with Special Standards, see Article 9.00 and Article 28.00 A = Accessory use, subject to the provisions in Section 3.03			
A. Manufacturing, processing, fabricating, compounding, treatment, packaging or assembly related to the following:			
Candy	P	P	
Chemicals	P	P	
Concrete mixing plants	P	P	
Cosmetics and toiletries	P	P	
Drugs and pharmaceuticals	P	P	
Dry cleaning and dyeing plants and laundries	P	P	
Electronics	P	P	
Food products	P	P	Does not include stockyards, slaughterhouses, and rendering plants
Metal working machine shops involving the use of grinding or cutting tools	P	P	
Musical instruments or appliances	P	P	
Painting and sandblasting	P	P	
Pottery and figurines	P	P	
Publishing, printing or forming of box, carton and cardboard products	P	P	
Tire vulcanizing and recapping	P	P	
Tool and die shops	P	P	
The manufacturing of products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, felt, fiber, glass, horn, leather, metal (excluding large stampings such as automobile bodies) , paper, plastics, precious or semi-precious metals or stones, shell, textiles, wax, wire, wood (excluding saw and planning mills), and yarns	P	P	
B. Other Industrial Uses:			
Industrial wells	P	P	
Packaging of preprocessed and previously manufactured goods	P	P	
Printing and publishing establishments	P	P	

Use	Districts Where Permitted		Comments
	A	B	
P = Principal Permitted Use S = Principal Permitted Use with Site Development Standards, see Article 9.00 C = Conditional Land Use, see Article 28.00 C/S = Conditional Land Use with Special Standards, see Article 9.00 and Article 28.00 A = Accessory use, subject to the provisions in Section 3.03			
Truck terminals, including transfer and temporary storage of materials and servicing of vehicles and equipment	P	P	
C. Other Permitted Uses:			
Accessory uses and structures incidental to the primary use	A	A	
Animal shelters	P		
Auto and Auto parts sales	P		
Automobile repair garage	P		Any such use shall be subject to the provisions in Section 9.02, subsection C
Beverage bottling	P		
Bus and truck storage and repair	P		
Bus terminals, garages and storage	P	P	
Car Rental Establishments	P		
Commercial bakeries	P		
Commercial Greenhouses	P		
Composting center	P	P	
Contractor's yards	S	S	Any such use shall be subject to the provisions in Section 9.02.J
Day Care	P	P	
Dental, medical, and optical laboratories	P		
Dispatch Centers, tow service	P	P	
Electrical transformer and transmission stations	P	P	
Electrical Generating Stations		P	
Fire stations	P	P	
Fitness Centers	P	P	
Gas regulator stations	P	P	
Kennels	P		
Landscaping contractor's operation	S	S	Any such use shall be subject to the provisions in Section 9.02.J
Lumber processing	S	S	Any such use shall be subject to the provisions in Section 9.02.J

Use	Districts Where Permitted		Comments
	A	B	
P = Principal Permitted Use S = Principal Permitted Use with Site Development Standards, see Article 9.00 C = Conditional Land Use, see Article 28.00 C/S = Conditional Land Use with Special Standards, see Article 9.00 and Article 28.00 A = Accessory use, subject to the provisions in Section 3.03			
Mini-warehouses	S		Any such use shall be subject to the provisions in Section 9.02.H
Mobile and modular home sales and service	P		
Offices	A	A	
Off-street parking	A	A	Subject to the provisions in Article 5.00
Open storage yards	P	P	Subject to the provisions of Section 9.02.J
Parking lots and parking structures	A	A	
Places of Worship	P	P	
Public utility facilities	P	P	Any such use shall be subject to the provisions in Section 9.02.K
Radio and television studios and offices, with broadcasting towers	C	C	
Radio and television studios and offices, without broadcasting towers	P	P	
Recycling center	P	P	
Repair service establishments of all types	P	P	
Research and testing laboratories	P	P	
Restaurants	P	P	
Sanitary landfills	P	P	
Signs	A	A	Subject to the provisions in Article 8.00
Solar Energy Generating Facilities	P	P	
Taxi and bus dispatch centers, not including storage or repair terminals	P		
Telephone exchange buildings, shops, and yards	P	P	
Truck and heavy equipment sales and service	P	P	
Vocational, technical and trade schools	P		
Veterinary clinics	P		Outdoor kennels are permitted as an accessory use
Warehousing	P	P	
Water and sewage treatment plants	P	P	
Wholesale and distributing establishments, distributing centers	P	P	

Use	Districts Where Permitted		Comments
	A	B	
P = Principal Permitted Use S = Principal Permitted Use with Site Development Standards, see Article 9.00 C = Conditional Land Use, see Article 28.00 C/S = Conditional Land Use with Special Standards, see Article 9.00 and Article 28.00 A = Accessory use, subject to the provisions in Section 3.03			
Wireless communication facilities	S	S	Any such use shall be subject to the provisions in Section 3.16

Section 23.03 -- DEVELOPMENT STANDARDS

A. Site Plan Review

Site plan review and approval is required for all uses in accordance with Article 27.00.

ARTICLE 24.00

PLANNED UNIT DEVELOPMENT

Section 24.01 -- INTENT

The intent of the Planned Unit Development regulations is to provide a zoning regulatory process that encourages planning and design, resulting in plans for particular sites that fulfill the goals and objectives of the Master Plan while achieving development that could not be achieved under other types of zoning regulations. It is the further intent of these regulations to permit development in accordance with such plans for particular sites, provided that the plans are prepared and adopted in accordance with the regulations in this Article.

A. Regulatory Flexibility

These Planned Unit Development regulations are further intended to permit regulatory flexibility to achieve development that is in accord with the City's Master Plan; to achieve economy and efficiency in the use of land, natural resources, energy, and in the provision of public services and utilities; to protect and preserve natural resources and natural features; to encourage the creation of useful open space particularly suited to the proposed development and the parcel on which it is located; and to provide appropriate development to satisfy the needs of residents of the City of Midland.

B. Land Use Compatibility

It is further intended that development permitted pursuant to this Article be laid out so that proposed uses, buildings, and site improvements relate to each other and to adjoining existing uses in such a way that they will be compatible, with no material adverse impact of one use on another.

C. Redevelopment

It is further intended that these regulations bring about re-use and/or redevelopment of sites where an orderly change of use is determined to be desirable, especially where re-use is restricted because of existing nonconformities, physical development, or the constraints of conventional zoning standards.

Section 24.02 -- DEFINITIONS

A. Planned Unit Development (PUD Development)

The term "PUD Development" means a specific parcel of land or several contiguous parcels of land, which is/are proposed to be developed in accordance with a Concept Plan approved by the City Council (after receiving a recommendation from the Planning Commission), where the plans meet the requirements of this Article, addresses needs in the City that could not otherwise be addressed in other conventional zoning districts, and achieves compatibility with surrounding uses.

B. Concept Plan

A Concept Plan, for the purposes of this Article, consists of the following:

1. Drawings and documentation illustrating and describing existing conditions, zoning, and development constraints;

2. Drawings and documentation illustrating the general layout of proposed uses, describing the general development plan, and identifying mandatory development conditions; and,

3. Documentation of impacts the proposed development will have on public facilities and services and ways in which these impacts will be mitigated in conjunction with the proposed development. Examples of impacts include, but are not limited to: level of service of street intersections, residential equivalency units for sewer service, water capacity and school district enrollment.

C. Detail Plan

A Detail Plan, for the purposes of this Article, consists of the following:

1. Scale drawings showing accurately and with complete dimensioning, the boundaries of a development site and the locations of all buildings, structures, and principal site development features proposed for a PUD Development; and

2. Plans and information regarding roads, utilities, sidewalks, and other infrastructure, parks and open spaces, enhancements to public services, and other features of the proposed PUD Development.

D. Underlying Zoning

The term "Underlying Zoning" means the zoning classification currently applicable to a parcel of land that is proposed to be developed in accordance with the PUD regulations.

Section 24.03 -- QUALIFICATION REQUIREMENTS

A. Mandatory Requirements

Consideration of a proposed development, pursuant to the Planned Unit Development regulations in this Article, may occur only on sites where the following conditions are met:

1. The proposed development site shall be at least three (3) acres in area. However, in the interest of making use of the Planned Unit Development as a tool to implement the Master Plan, the City Council, upon recommendation from the Planning Commission, may permit a PUD project on a site as small as one (1) acre in size if: (a) the project has unique characteristics and benefits, and/or (b) the parcel in question has unique characteristics that significantly impact development, such as, for example, unusual shape or proportions, unusual topography, or potentially incompatible land uses on surrounding property.

2. The proposed development shall either:

    a. Be under single ownership or control such that there is a single person or entity having responsibility for assuring completion of the project in conformity with this Ordinance, or

b. If there is more than one owner or entity with an interest in the project, then there shall be a commitment in writing by all owners and/or entities to work in unison toward completion of the project in conformity with this Ordinance.

The applicant(s) shall provide legal documentation of single ownership, single control, or joint unified control in the form of agreements, contracts, covenants, and deed restrictions which indicate that the development can be completed as shown on the plans, and further, that all portions of the development that are not to be maintained or operated at public expense will continue to be operated and maintained by the developers or their successors. These legal documents shall bind all development successors in title to any commitments made as a part of the documents. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is given to the Planning and Community Development Director.

B. Concept Plan

The City Council shall have the authority to approve a Concept Plan for a PUD development proposal, following a recommendation by the Planning Commission, in accordance with the procedures set forth in Section 24.06, and the Concept Plan Eligibility Criteria that follow in this Section 24.03. Preparation of a Concept Plan for a development site may be initiated by the City Council, Planning Commission, Downtown Development Authority, or Brownfield Authority, or by the property owner or other person(s) or entity that has a legal interest in the site.

C. Concept Plan Eligibility Criteria

In order to be eligible for PUD approval, it shall be demonstrated with the Concept Plan that all of the following criteria will be met:

1. The use of PUD regulations shall not be used for the sole purpose of avoiding the requirements for dimensional variances involving uses that would already be permitted in the underlying zoning district.

2. PUD approval shall be granted only when the proposed land use will not materially add public service or facility loads beyond those contemplated in the Master Plan or other adopted policies or plans of the City, unless the applicant can demonstrate to the satisfaction of the City Council that such added loads will be accommodated or mitigated upon implementation of the PUD plan.

3. A proposed PUD development shall be consistent with the goals and objectives and shall not have an adverse impact upon the Master Plan for the City. Notwithstanding this requirement, the City Council may approve a PUD proposal that includes uses which are not called for on the Master Plan, provided that the City Council determines that such a use deviation from the Master Plan is justified based on a demonstrated need and the current planning and development objectives of the City. In making such a determination, the City Council shall seek the advice of the Planning Commission.

4. Land use patterns established by the PUD development shall be compatible with existing and planned uses on and adjacent to the site.

5. The PUD development shall improve the appearance of the City through quality building design and site development; the provision of trees and landscaping consistent with or beyond minimum requirements; the preservation of unique and/or historic sites or structures; and/or the provision of open space or other desirable features of a site beyond minimum requirements.

6. The PUD development shall not be allowed solely as a means of increasing the density or intensity of development. The PUD development shall result in a development that could not be achieved under conventional zoning.

Section 24.04 -- PERMITTED USES

A PUD development may contain any uses or combination of uses that are listed as Principal Permitted Uses or Uses Permitted Subject to Site Development Standards in compatible zoning districts in the City provided that the proposed uses are shown on the approved Concept Plan, and provided further that the proposed uses satisfy the following criteria:

A. Compatibility of Uses

1. **Uses permitted in PUDs in RA-1, RA-2, RA-3, and RA-4 Districts.** Uses permitted in Sections 20.02.A, 20.02.B, 20.02.C, and principal permitted uses and uses permitted with site development standards in the NC district as found in Table 21.1 are permitted in addition to all uses permitted by Section 14.02.

2. **Uses permitted in PUDs in the RB District.** Uses permitted in Sections 14.02.A, 14.02.B, 14.02.C, 20.02.A, 20.02.B, 20.02.C, and principal permitted uses and uses permitted with site development standards in the NC district as found in Table 21.1 are permitted in addition to all uses permitted by Section 15.02.

B. Harmonious Relationship

There shall be a reasonably harmonious relationship between the location of buildings and uses on the site relative to buildings and uses on lands in the surrounding area.

C. Combination of Residential and Non-Residential Uses

Residential and non-residential uses may be permitted together on the same site in a PUD development, provided that the residential and non-residential uses are carefully integrated in a manner that is consistent with good site design and planning principles so as to create a high quality living environment.

Section 24.05 -- DEVELOPMENT STANDARDS

The design standards in this Section shall be used as a guide for design of PUD developments. However, modifications to these standards may be approved by the City Council in conjunction with approval of the Concept Plan, upon receiving an advisory recommendation from the Planning Commission, upon making the determination that other standards would be more appropriate because of the particular design and orientation of buildings and uses, and provided that any such modified standards shall be consistent with the intent of the PUD stated in Section 24.01. Design and zoning standards modifications approved in conjunction with the approval of a PUD Concept Plan shall not require approval of the Zoning Board of Appeals.

A. Purpose

The purpose of this section is to ensure that the physical and operational characteristics of proposed buildings and uses are compatible when considered in the context of the surrounding area.

B. Setbacks

PUD developments shall comply with the following minimum setback requirements, which shall be determined by the same method as determination of setbacks in other zoning districts, unless otherwise indicated:

Table 24.1: PUD MINIMUM SETBACKS

Location	Minimum Setback
Along perimeter, adjacent to public road	30 ft. [a]
Along perimeter, but not adjacent to a road	20 ft.
Along an internal road or driveway	[b]
Parking lot setback from adjacent public road	20 ft.
Setback between buildings within a PUD	[b]

a. A smaller setback with a build-to line may be approved upon review of the Concept Plan in the interest of establishing a consistent relationship of the buildings to the street and sidewalk, so as to form a visually continuous pedestrian-oriented street front.

b. Minimum setbacks within the development shall be based on good planning and design principles, taking into account the degree of compatibility between adjoining uses, compatibility between uses and roads and drives, sensitivity to the characteristics of the site, the need for free access for emergency vehicles, the need for adequate amounts of light and air between buildings, and the need for proper amounts of open space.

C. Maximum Height

Buildings and structures taller than permitted by the underlying zoning proposed on the Concept Plan that are taller than the maximum height allowed in the underlying zoning district may be approved, upon making the following determinations:

1. **Light and Shadow.** Buildings or structures greater than forty (40) feet in height shall be designed so as to not have an unreasonable adverse impact on adjacent property as a result of the shadows that are cast or glare created from reflected or artificial light.

2. **Privacy.** Buildings or structures greater than forty (40) feet in height shall be designed to avoid infringing on the privacy of adjacent public and private property, particularly adjacent residential areas.

3. **Scale of Development.** Buildings or structures greater than forty (40) feet in height shall be compatible with the scale of the neighborhood or area in which they are situated in terms of relative height, height to mass, and building or structure scale to human scale.

D. Parking and Loading

Parking and loading facilities in PUD developments shall comply with the standards in Article 5.00. However, the minimum number of parking spaces required may be modified, based on evidence that other standards would be more reasonable because of the level of current or future employment, the level of current or future customer traffic, shared parking by uses that have peak parking demands that do not overlap, and other considerations. A decision to reduce the number of parking spaces shall be based on technical information provided by a qualified planning, parking or traffic consultant, that verifies that the reduction will not impair the functioning of the developments served, or have an adverse impact on traffic flow on or adjacent to the development.

In conjunction with a decision to reduce the number of required parking spaces, the City Council may require the execution, by the developer, of an Agreement, that commits the developer to the provision of additional parking spaces, up to the minimum required by Section 5.01, subsection C, if and when such are determined to be necessary by the City within a specified period of time. This Agreement may be part of the PUD agreement, as provided for under Section 24.06.B(3).

E. Landscaping

A complete landscaping plan which satisfies the requirements in Article 6.00 shall be required as part of the Detail Plan submittal.

F. Open Space in PUD Developments with Residential Component

PUD developments containing a residential component shall provide usable open space that is accessible to all residents of the development. Such open usable space shall not consist of required yard areas or storm water retention or detention ponds (except as identified below) and shall be identified on the Concept and Detail Plans. The amount, location, shape, and other characteristics of open space within a development shall be based on good planning and design principles, taking into account the following considerations:

1. The types and arrangement of uses on the site;

2. The proposed uses of the open space and types of improvements proposed within the open space;

3. The extent to which the leisure and recreation needs of all segments of the population residing in the development would be accommodated; and

4. The manner in which the open space is integrated into the overall design of the development.

5. Up to 50% of the surface area of stormwater management ponds may qualify as open space if the following conditions are met:

    a. All stormwater management ponds shall be integrated into the overall development and shall serve as a visual and physical amenity to the site. A visual and physical amenity is easily accessible to pedestrians and/or non-motorized vehicles and is visually attractive.

    b. All stormwater management ponds shall have a minimum permanent water depth of 4 feet and a maximum permanent water depth of 9 feet.

    c. The maximum slope of stormwater management ponds in a Planned Unit Development shall be 1:6.

    d. Fences around stormwater management ponds are not permitted.

    e. All stormwater management ponds shall have a natural appearance, and shall be round, oval, or kidney in shape with irregular edges.

    f. Recreation facilities such as walking paths shall be provided near and/or around stormwater management ponds to allow users of the site to use and enjoy the ponds as an amenity.

G. Circulation System

The vehicular and pedestrian circulation system within each development shall safely and conveniently accommodate the movement of vehicles, bicycles, and pedestrians throughout the proposed development and to and from surrounding areas.

H. Additional Considerations

1. **Stormwater Detention or Retention**
Stormwater detention or retention shall be provided in underground pipes or in open unfenced detention or retention basins, where feasible. These basins shall be incorporated into the landscaping or open space plan for the site. Best management practices in stormwater management are encouraged such as use of natural habitat to filter stormwater (bio-swales, rain gardens and phytoremediation), design to decrease the amount of impervious surfaces (permeable paving, green roofs, and curbless parking areas and roads), and dissemination of stormwater in a natural manner (level spreaders and multiple, connected ponds).

2. **Other Considerations**
In their review of a proposed PUD development, the Planning Commission and City Council may review other considerations that are found to be relevant to a particular project, including, but not necessarily limited to: road capacity; capacity and design of utility systems; achievement of an integrated development with respect to signage, lighting, landscaping, and building materials; and, extent to which noise reduction and visual screening are used, particularly in cases where non-residential uses adjoin residential uses. When reviewing any such additional considerations, the Planning Commission and City Council may refer to applicable standards in Article 3.00 – General Provisions, Article 5.00 – Parking & Loading, Article 6.00 – Landscaping & Screening, Article 7.00 – Walls & Fences, Article 8.00 – Signs, and Article 9.00 – Site Development Standards for Specific Uses of the Zoning Ordinance, while recognizing that such standards may be used as a guide for design of PUD developments and modifications to these standards may be approved.

Section 24.06 -- REVIEW PROCEDURES

A. Review Process

1. Concept Plan Contents
A Concept Plan may be submitted by any person or entity owning or controlling land that is eligible for consideration as a Planned Unit Development in accordance with Section 24.03.A and shall include the following:

a. A written statement explaining the proposed uses, building and site improvements, phasing plans, and resulting open spaces, landscaped areas, floor area and parking. The written statement shall include a statement of reasons that PUD is preferred over conventional zoning, and identification of the benefits to the City of Midland and its residents resulting from the PUD project.

b. Concept Plan drawings, as defined and described in Section 24.02.B, containing enough detail to explain the proposed uses, relationship to adjoining parcels, vehicular and pedestrian circulation patterns, open spaces and landscape areas, and building density or intensity.

c. Additional maps and documents as necessary to adequately describe the project.

2. Concept Plan Review by the Planning Commission
If the application is found to be complete by the Planning and Community Development Department staff, the application shall be transmitted to the Planning Commission for review and recommendation to the City Council. Before making a recommendation, the Planning Commission shall hold a public hearing, following the hearing requirements for

Conditional Land Uses in Section 28.02. After the public hearing, the Planning Commission shall review the proposal. In conducting its review, the Planning Commission may seek information, analysis and advice from the City staff, as necessary. The Planning Commission shall then report its findings and make its recommendations to the City Council.

3. Concept Plan Review by the City Council

Upon receipt of the report and recommendation from the Planning Commission, a public hearing by the City Council shall be scheduled. After the public hearing, the City Council shall review all findings and take action to approve, approve with conditions, or deny the Concept Plan, and shall set forth the reasons for their action in writing. A determination that a proposal qualifies for PUD approval shall be accompanied by a description of the minimum conditions under which the proposal will be considered for final approval. In describing such conditions, the City Council may identify specific requirements or standards in the Zoning Ordinance that could be waived or modified upon approval of the final PUD Detail Plan. A determination of Qualification and Concept Plan Approval does not assure approval of a particular PUD Detail Plan, but is intended to provide direction for preparation of the Detail Plan upon which a final determination would be based. If the City Council denies the Concept Plan, the applicant may pursue development or use of the site under conventional zoning standards, or may submit a new design based upon a revised Concept Plan.

4. Approval

Approval of a Concept Plan by the City Council pursuant to the PUD regulations shall confer upon the property owner or owners the right to submit a PUD Detail Plan in accordance with Section 24.06.B. The right to submit a PUD Detail Plan will be valid for a period of twenty-four (24) months from the date of Concept Plan approval by the City Council. Once an area has been included in a Concept Plan that has been approved by the City Council, no development may take place in such area nor may any use thereof be made except in accordance with the City Council-approved Concept Plan or a Plan Amended in accordance with paragraph (D) of this Article.

B. Request for Final Approval

Following approval of a Concept Plan and Request for Qualification by the City Council, final approval may be sought by a property owner or developer by submittal of the following materials:

1. PUD Detail Plan

An application and Detail Plan (as defined in Section 24.02) shall be submitted to the Planning Department to initiate review and action by the Planning Commission. The Detail Plan shall contain all of the information required for site plans in Section 27.05, and any other documentation necessary to demonstrate that the Detail Plan complies with all the conditions upon which approval of the Concept Plan was based.

2. City Council Review

a. The Planning and Community Development Department shall determine if the Detail Plan is substantially in compliance with the site plan submittal requirements and the minimum conditions of approval of the Concept Plan. If the Plan is found to be in compliance with submittal requirements and minimum conditions, the proposal shall be placed on the City Council agenda.

b. The City Council shall review the proposed Detail Plan and make a determination whether the proposal satisfies the qualification criteria and whether the proposal adheres to the following objectives and requirements.

(1) The Detail Plan is in compliance with the approved Concept Plan.

(2) All applicable provisions of this Article and Ordinance shall be met. Insofar as any provisions of this Article are in conflict with the provisions of any other section of this Ordinance, the provisions of this Article shall apply to the lands within the boundaries of a proposed PUD project.

(3) There is, or will be at the time of development, sewer, water, and an adequate means of managing storm water flow, and achieving a safe and adequate road system.

Upon making these determinations, the City Council shall take action to approve, approve with conditions, or disapprove the Detail Plan, and shall set forth the reasons for their action in the minutes of the meeting at which the action occurred.

c. City Council approval of a PUD Detail Plan shall be final, unless the Detail Plan proposes significant alterations to the intent and conditions of the Concept Plan approval, in which case reconsideration of the Concept Plan by the Planning Commission and City Council shall be required, pursuant to Section 24.06. If such reconsideration is required, then the City Council shall delay taking action on the Detail Plan until the Planning Commission reconsiders and acts on the revised Concept Plan.

3. PUD Agreement

Upon approval of the Detail Plan, the City Attorney shall prepare a PUD Agreement setting forth the conditions upon which such approval is based, which Agreement, after approval by resolution of the City Council, shall be executed by the City and the applicant. Approval of the Detail Plan shall become effective upon recording of the Agreement in the Office of the Midland County Register of Deeds, which shall be done at the expense of the applicant. The Agreement shall include the following elements:

a. Project summary.

b. Identification of the plans and documents that are a part of the approval.

c. The terms and conditions under which the approval was granted and the project will be allowed to be implemented.

d. The entity that is responsible for constructing each element of the project, including the public facilities and infrastructure.

e. Project details and dimensions that are mandatory.

f. Identification of the entities that will own and be responsible for maintenance of public open space, common areas, and facilities, and the method of financing such maintenance work.

g. Terms or conditions regarding the expiration or revocation of PUD approval.

C. Phasing

An PUD project may be proposed for construction in phases, in which case the project shall be designed so that each phase, when completed, is capable of standing on its own in terms of public or common services, facilities, and utilities and open space. Each phase shall contain the

necessary components to insure protection of natural resources and the health, safety and welfare of the users of the project and the residents of the surrounding area.

D. Amendments

1. If the Planning and Community Development Director determine that a proposed amendment to a plan approved pursuant to these PUD regulations alters the intent and conditions of the PUD approval, revised Concept and Detail Plans shall be submitted for review following the procedures in Section 24.06.A

2. If the proposed amendment is found to not alter the intent and conditions of the PUD approval, the amendment shall be reviewed as an amendment to the site plan, following the procedures for site plan review in Article 27.00.

E. Appeals

The Board of Zoning Appeals has no authority in matters covered by this Article. Modifications to plans or proposals submitted under this Article shall be processed in accordance with the amendment procedures covered under Section 24.06.D.

F. Violations

Any violation of the approved PUD Concept or Detail Plan or PUD Agreement shall be considered a violation of the Zoning Ordinance, which shall be subject to the enforcement actions and penalties described in Section 31.07.

ARTICLE 25.00

RESIDENTIAL OPEN SPACE OPTION

Residential Open Space developments may be approved in the Agricultural, Residential A-1, Residential A-2, Residential A-3 and Residential A-4 districts, subject to the standards and review procedures set forth herein.

Section 25.01 -- PURPOSE

It is the intent of this Article to offer an alternative to traditional subdivisions through the use of cluster zoning as authorized by the Michigan Zoning Enabling Act (Public Act110 of 2006, as amended) for the purpose of:

- Encouraging the use of land in accordance with its character and adaptability;
- Assuring the permanent preservation of open space and other natural resources;
- Providing recreational facilities within a reasonable distance of all residents of the Residential Open Space development;
- Encouraging the provision of open space of a reasonable size;
- Allowing innovation and greater flexibility in the design of residential developments;
- Facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
- Ensuring compatibility of design and use between neighboring properties and a consistent density with that permitted in the current zoning district; and
- Encouraging a less sprawling form of development, thus preserving open space as undeveloped land.

These regulations are intended to preserve the character of the City of Midland through the creation of small residential nodes with complementary open space. It is the intent of these regulations to produce a development substantially consistent with Zoning Ordinance standards, yet to allow for modifications from the general standards to meet the intent of this Ordinance.

Section 25.02 – REVIEW AND APPROVAL PROCESS

If the Residential Open Space option is selected, the property shall be developed under the conditions and requirements in this sub-section, applicable requirements for the district in which the development is located, and other applicable zoning regulations and City ordinances. Proposals for Residential Open Space developments shall be reviewed following the same procedures used for a conditional land use in the underlying zoning district, except that the applicant shall complete a site features inventory prior to development. The inventory shall consist of maps and written analysis which shall identify, describe and

quantify the following features, at minimum: existing vegetation, topography at two-foot contour intervals, water courses, drainage patterns, roads and road rights-of-way, easements, soils (based on U.S. Soil Conservation Survey or soil borings), MDEQ-regulated wetlands, floodplains, woodlands and tree lines, and any additional features uniquely affecting the site.

Section 25.03 – DENSITY

A. Permitted Density

The overall density of residential uses in a Residential Open Space development shall not exceed the density that would be permitted if the site was developed as a conventional single family subdivision, unless a density bonus is recommended by the Planning Commission and approved by the City Council.

The permitted density shall be based on the net buildable area of the site which consists of the portions of the site that are not encumbered by regulated wetlands (except that one-quarter of the total wetlands may be counted as buildable), steep slopes, existing and proposed road rights-of-way, easements, existing structures or lots, or other existing or proposed features that would prevent construction of a building or use of the site for residential purposes.

Modifications permitted under the Residential Open Space option that result in reduction in land area dedicated to individual dwelling units shall be compensated for by an equivalent amount of open space, which shall be maintained and preserved in accordance with the standards specified in this subsection.

B. Density Bonus

A density bonus of up to twenty percent (20%) shall be permitted at the discretion of the City Council where provisions are made for either preservation of natural features, recreational facilities, more extensive landscaping than otherwise required, the provision of bike paths or the preservation of open space of recognizable benefit to the City of Midland, not including the protection of regulated wetland areas.

Section 25.04 – DIMENSIONAL STANDARDS

A. Variations from the setback and lot size requirements listed in Article 26.00 for the underlying zoning district may be permitted where the City Council finds that a smaller lot size is required to achieve the density permitted under Section 25.03.

B. Distances between Buildings

Any detached single family structure (or accessory structure thereto) shall be located at least ten (10) feet from any other detached single family structure or accessory structure.

C. Height Standards

Buildings in a Residential Open Space development shall comply with the height standards for the district in which the development is located.

Section 25.05 – OPEN SPACE REQUIREMENTS

Residential Open Space developments shall provide and maintain open space in an undeveloped state, which shall comply with the following requirements:

1. Residential Open Space developments shall reserve at least twenty percent (20%) of the parcel in an undeveloped state.

2. Open space shall be located on the parcel to meet the following objectives:

   a. To preserve distinctive natural features, scenic or wooded conditions, and other open space.

   b. To preserve farmlands.

   c. To minimize impact from development on wetlands, streams, and other sensitive environmental areas.

   d. To provide additional buffering from traffic and enhance views from the roadway.

   In addition, the open space shall be developed with children's play facilities, picnic facilities, trails, and similar passive recreational facilities to satisfy the needs of future residents of the development, provided that all such facilities shall be compatible in design with other open space requirements and objectives.

3. Required open space shall not include the area of any public or private road, the area of any easement providing access to the site, or the area of any commercial recreation use (such as a golf course). Required open space also shall not include the area of any stormwater retention or detention pond, with the exception that up to 50% of the surface area of stormwater management ponds may qualify as open space if the following conditions are met:

   a. All stormwater management ponds shall be integrated into the overall development and shall serve as a visual and physical amenity to the site. A visual and physical amenity is easily accessible to pedestrians and/or non-motorized vehicles and is visually attractive.

   b. All stormwater management ponds shall have a minimum permanent water depth of 4 feet and a maximum permanent water depth of 9 feet.

   c. The maximum slope of stormwater management ponds in a Planned Unit Development shall be 1:6.

   d. Fences around stormwater management ponds are not permitted.

   e. All stormwater management ponds shall have a natural appearance, and shall be round, oval, or kidney in shape with irregular edges.

   f. Recreation facilities such as walking paths shall be provided near and/or around stormwater management ponds to allow users of the site to use and enjoy the ponds as an amenity.

4. Open Space areas shall be protected from soil compaction during construction.

5. The required open space shall be set aside by the developer through an irrevocable conveyance, such as a deed restriction, conservation easement, plat dedication, restrictive covenant, or other means that runs with the land assuring that the open space will remain undeveloped. Such conveyance shall:

a. Indicate the proposed use(s) of the required open space.

b. Provide for the privately-owned open space to be maintained by private property owners having an interest in the open space.

c. Provide maintenance standards and a maintenance schedule.

d. Provide notice of possible assessment to the private property owners by the City of Midland for the maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.

e. After approval from the City Attorney, the developer shall record the conveyance with the Midland County Register of Deeds to provide record notice of the restrictions to all persons having or seeking an interest in the property contained in the Residential Open Space development. Evidence that the document has been recorded shall be provided to the City prior to issuance of any permits to commence construction.

Section 25.06 – STORMWATER MANAGEMENT

1. Existing natural drainage shall be maintained to the maximum extent feasible.

2. Retention and detention basins, where proposed or required, shall resemble natural ponds with gradual slopes and shall be landscaped with plant material that enhances the wildlife habitat.

3. Best management practices in stormwater management are encouraged such as use of natural habitat to filter stormwater (bio-swales, rain gardens and phytoremediation), design to decrease the amount of impervious surfaces (permeable paving, green roofs, and curbless parking areas and roads), and dissemination of stormwater in a natural manner (level spreaders and multiple, connected ponds).

ARTICLE 26.00

SCHEDULE OF REGULATIONS

Section 26.01 -- INTENT AND SCOPE OF REQUIREMENTS

The purpose of this Article is to establish regulations governing lot size, required yards, setbacks, building height, and development density for each zoning district. No building shall be erected, nor shall an existing building be altered, enlarged, or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the regulations established for the district in which the building or use is located. A portion of a lot used to comply with the regulations in this Article for one building or use shall not be simultaneously used to comply with the regulations for another building or use.

Section 26.02 -- SCHEDULE OF REGULATIONS

All buildings, uses, and parcels of land shall comply with the regulations set forth in the following Schedule of Regulations and footnotes thereto.

TABLE 26.01

Zoning District	Lot Minimum		Max Height (Feet)	Minimum Setback Requirement (in feet)				
	Area (Sq. Ft.)	Width (Feet)		Front	Rear	Side	Both Sides	Side Street
Agricultural	14,000	100	28 b	30 a	35 a	10 a, d	20 a,	20 a, e
Residential A-1	12,000	80	28 b	30 b, c	30 b	8 b, d	20 b	20 b, e
Residential A-2	9,000	70	28 b	30 b, c	30 b	8 b, d	20 b	20 b, e
Residential A-3	7,200	60	28 b	25 b, c	25 b	7 b, d	16 b	15 b, e
Residential A-4								
1 Family	7,200	60	28 b	25 b, c	25 b	7 b, d	16 b	15 b, e
2 Family	9,000	60	28 b	25 b, c	25 b	7 b, d	16 b	15 b, e
Residential B								
1-2 Family Boarding Houses: 3-8 Boarders	7,200	60	28	25	25	5 d	14	10 e
Multi-Family: 3-6 Units Boarding Houses: 9+ Boarders)	10,000 f	70	28 g	25 g, i	25 g, h, i	10 d, g, h, i	20 g, h, i	15 e, g, i
Multi-Family: 7+ Units All Other Permitted Uses	10,000 f	70	28 g	25 g, i	25 g, h, i	25 d, g, h, i	50 g, h, i	25 e, g, i
Residential D								
Community	12,000	100	28 p	30	25 j	25 d, j	50 j	30
Office Service	7,200	60	28k	25 k	25 k, m	7 d, k, l, m	16 k, l, m	25 k
Neighborhood Commercial NC	none	none	28	25	l	l	l	25
Community Commercial CC	none	none	28	25	n	n	n	25
Regional Commercial RC	none	none	none	25	n	n	n	25
Downtown D	none	none	76	none	l	l	l	none
Downtown Overlay D-O	none	none	none (min. ht. of 2 stories)	none	none	none	none	none
Downtown Northside Overlay DNO	none	none	See 21.03.C.7					
Circle C	none	none	36	none	none	none	none	none
Industrial A	none	none	none	25	o	o	o	25
Industrial B	none	none	none	25	o	o	o	25
LCMR	none	150	45 p	20 p, q	20 p, q, r, s	20 p, q, r, s	40 p, q, r, s	20 p, q

FOOTNOTES TO THE SCHEDULE OF REGULATIONS

a. **Exceptions to Setback Requirements in Agricultural District:** The building setback requirements listed in the schedule of regulations for the Agricultural District apply to single family dwellings, churches, fire stations and schools. All other uses in the Agricultural District shall have a setback of one hundred (100) feet from all property lines.

b. **Height Exceptions for Places of Worship in Single Family Residential Zoning Districts:** Places of worship, when constructed in RA-1, RA-2, RA-3 or RA-4 zoning districts, may exceed twenty-eight (28) feet in height, provided that building setbacks shall comply with the following table:

Building Height	Additional Setback Required (All Yards)
0-28 Feet	None
29-42 Feet	18 ft.
43-56 Feet	36 ft.
57-70 Feet	54 ft.

Example: *A 35 foot tall place of worship in the RA-1 District would have the following minimum setback requirements:*

Front	*30 + 18 =*	*48 feet*
Rear	*30 + 18 =*	*48 feet*
Side	*8 + 18 =*	*26 feet*

c. **Exceptions to the Front Yard Setback due to an Established Residential Building Pattern:** The required front yard setback in the RA-1, RA-2, RA-3, and RA-4 zoning districts may be reduced if the residential dwellings erected on one or both sides of a lot have front yard setbacks less than the required front yard setback for that zoning district. In this case, the required front yard setback of the lot may be reduced to the greater of:

1. The average front setback of the existing developed front yards on lots within one hundred (100) feet of and on the same block as the subject lot. If one of the lots is vacant, that lot shall be excluded from the calculation of the average front setback.

2. Ten (10) feet.

d. **Interior Side Yards on Corner Lots:** The side yard setback shall apply to the interior side yard for corner lots.

e. **Garage Access:** Where access is directly into a garage from a side street, the minimum garage setback is twenty (20) feet.

f. **Lot Area for Multiple-Family Dwellings:** The minimum lot area for multiple-family dwelling shall comply with Table 9.1 (Section 9.03.B).

g. **Height Exception with Additional Setback for Multiple-Family Dwellings:** Multiple-family building height may exceed twenty-eight (28) feet provided that additional setback (over and above the required setback) is provided for all yards in accordance with the following table:

Building Height	Additional Setback Required (All Yards)
1 Story	None
2 Stories	None
3 Stories	12 ft. 18 ft. when adjacent to single family residential zoning district
4 Stories	24 ft. 36 ft. when adjacent to single family residential zoning district
5 Stories or more	36 ft. 54 ft. when adjacent to single family residential zoning district

h. **Additional Minimum Setbacks for Multiple-Family Dwellings with over 100 feet of Building Length:** For buildings with a continuous building length parallel to the property line in excess of one hundred (100) feet, the rear and side yard setbacks shall be increased by two (2) foot for each five (5) additional feet in excess of one hundred (100) feet.

i. **Building Spacing for Multiple-Family Dwellings: See Section 9.03A 3.**

j. **Side and Rear Yards in Community Districts:** When adjacent to a residential district, rear and side yard setbacks shall be at least fifty (50) feet, with the total of both side setbacks at least one hundred (100) feet.

k. **Height Exception with Additional Setback Requirements in the Office-Service District:** Non-residential uses in the Office-Service District over two (2) stories in height shall provide the additional setbacks (over and above the required setback) for all yards in accordance with the following table.

Building Height	Additional Setback Required (All Yards)
3 Stories	12 ft. 18 ft. when adjacent to single family residential zoning district
4 Stories	24 ft. 36 ft. when adjacent to single family residential zoning district
5 Stories or more	36 ft. 54 ft. when adjacent to single family residential zoning district

l. **Required Side Yard Setback in OS District and Side and Rear Yard Setback in NC and D Districts (Adjacent to Single Family Residential Districts):** If the side lot line of a parcel in the OS or NC District abuts any Single Family Residential District, a twenty-five (25) foot side yard setback shall be provided from that side lot line. A twenty-five (25) foot rear yard setback shall be provided from a rear lot line in the NC and D Districts that abuts any Single Family Residential District.

m. **Side and Rear Yard Setback Exception in the OS District:** No side or rear yard setback is required from a side or rear lot line, respectively, if that side or rear lot line abuts any of the following zoning districts: NC, CC, RC, D, C, IA, IB, or LCMR.

n. **Required Side and Rear Yard Setbacks in CC and RC Districts:** Side and rear yard setbacks are required in the CC and RC districts in the following instances: the parcel abuts a single family

residential district or the building exceeds twenty-five (25) feet in height. Required setbacks are as follows:

Circumstance	Required Setback (Side and Rear)
Abuts Single Family District	25 ft.
Exceeds 25 feet in height 1-3 stories	25 ft.
Exceeds 25 feet in height 4 Stories	25 ft. 36 ft. when adjacent to single family residential zoning district
Exceeds 25 feet in height 5 Stories or more	36 ft. 54 ft. when adjacent to single family residential zoning district

o. **Required Side and Rear Yard Setback in IA and IB Districts (Adjacent to Residential Districts):** If the side lot or rear lot line abuts any Residential District, a one hundred (100) foot side yard setback or rear yard setback shall be provided from that lot line.

p. **Additional Setback Required for Building over 28 feet in the LCMR and COM Districts:** For buildings over twenty-eight feet, or two stories in height, in the LCMR and COM districts all required setbacks shall be increased according to the following table:

Building Height	Additional Setback Required (All Yards)
Up to 3 Stories	18 ft.
4 Stories	36 ft.
5 Stories or more	54 ft.

q. **Additional Minimum Setbacks in the LCMR District:** When abutting a major or secondary thoroughfare, or adjacent to a Residential and Community district, the following minimum setbacks shall be provided from the lot line:

Circumstance	Required Setback	Prohibited in Required Setback
Abuts major or secondary thoroughfare	50 ft.	Parking
Adjacent to Residential District	25 ft.	Parking and Commercial Driveways
Adjacent to Community District	25 ft.	Parking and Commercial Driveways

r. **Parking Permitted:** Parking is permitted in required rear and side yards.

s. **Interior Lot Line Setback Exceptions in the LCMR District:** No setback shall be required from an interior lot line that abuts an LCMR District.

t. **All residential dwellings must maintain a 25 foot front yard setback.**

ARTICLE 27.00

SITE PLAN REVIEW

Section 27.01 -- INTENT

The site plan review procedures and requirements in this Section are intended to achieve the following:

1. Provide a consistent and uniform method of review of certain proposed development plans;
2. Ensure full compliance with the regulations and standards in this Ordinance and other applicable ordinances and laws, including the Building Code enforced by the City;
3. Ascertain that significant redevelopment complies with current standards;
4. Create an accurate record of approved development;
5. Achieve efficient use of the land;
6. Protect natural resources; and
7. Mitigate adverse impact on adjoining or nearby properties.

Section 27.02 -- SITE PLAN REQUIRED

A. Site Plan Required

Except as provided in the following subsection B, the construction of any new structures, development of any new use, and all other building or development activities shall require site plan approval pursuant to this Section. Site plan review shall be required for the following activities:

1. Erection, relocation, conversion or structural alteration to a building or structure to create an additional seventy five hundred (7,500) square feet of gross floor space, other than a single family dwelling or two family dwelling.

2. Development of all non-single family residential uses permitted in single family districts, regardless of the building square footage.

3. Expansion or paving of off-street parking involving twenty-six (26) or more spaces. All proposed parking lots and parking lot expansions are subject to the parking lot review and approval process in Section 5.01.D(1).

4. Mobile home parks shall be reviewed in accord with the standards set forth in this Article unless contrary to provisions of the Mobile Home Commission Act 1987, PA 96, as amended, and the Mobile Home Commission Rules.

5. All site condominium projects where four (4) or more detached dwelling units are proposed.

6. Erection, relocation, conversion or structural alteration to a building or structure that will result in a change in access provisions to adjoining streets.

7. Erection, or structural addition of at least one thousand square feet (1,000) of gross floor area to a commercial, industrial or office building or structure when located directly adjacent to RA-1, RA-2, RA-3, or RA-4 Residential Zoning districts.

B. Site Plan Not Required

Notwithstanding the preceding subsection a site plan approval is not required for the following activities:

1. Construction, moving, relocating or structurally altering a single or two-family dwelling, including any customarily incidental accessory structure.

2. Construction of any addition to an existing building or structure to create not more than an additional seven thousand five hundred (7,500) square feet of gross floor area, in aggregate, since the approval of a site plan under the preceding subsection A.

C. Administrative Site Plan Review

All activities**,** which meet the criteria listed in subsection B(2) shall still-require an administrative site plan review by city staff to determine compliance with this ordinance and other city codes and ordinances. Submission requirements for administrative site plans shall be the same as other site plans, except that this review shall only be conducted by city staff and approved by the Planning and Community Development Department. Applicable review fees may be required per Chapter 21 of the Midland Code of Ordinances.

Section 27.03 -- SITE PLAN REVIEW APPLICATIONS AND PROCEDURES

A. Review and Approval Authority

All site plans shall be reviewed by the Planning Commission and approved by the City Council following the procedures set forth in the following Section 27.04. The City Council shall have the authority to approve, approve with conditions, or deny all site plans.

B. Submission of Site Plan for Formal Review and Approval

In order to initiate formal review by the Planning Commission, the applicant shall submit the following materials:

1. One (1) completed and signed copy of the Application for Site Plan Review,

2. Six (6) legible copies of the site plan on sheets at least 24 inches by 36 inches, two (2) copies of the site plan on sheets at least 11 inches by 17 inches, and one (1) digital copy of the site plan that includes a colored rendering of the site plan and elevations when available.

3. Evidence shall be submitted to show that the plans have been submitted to governmental agencies that have jurisdiction over any part of the development, including, but not necessarily limited to: Midland County Road Commission, Midland County Drain Commissioner, and Midland County Health Department, Michigan Department of Transportation, Michigan Department of Natural Resources, and the Michigan Department of Environmental Quality.

4. The required review fee as established by Chapter 21 of the City of Midland Code of Ordinances.

These materials shall be submitted to the City at least twenty-eight (28) days prior to the Planning Commission meeting at which the review is requested.

C. Determination of Compliance

The Planning and Community Development Department and other City Departments shall review the site plan and may solicit review and comments by other professionals and agencies. Upon review of the site plan proposal, the Planning and Community Development Staff may require the

applicant to complete revisions required to comply with this ordinance or other regulations and submit the plans for further review prior to formal action being taken.

27.04 -- REVIEW AND FINAL ACTION

A. Public Hearing

1. Upon receipt of a complete application for a site plan review in accordance with Section 27.04, a public hearing before the Planning Commission will be set. Notice of said public hearing shall be published in the local newspaper at least fifteen (15) days prior to the date of the hearing, and all property owners within three hundred (300) feet of the area shall be notified by mail.

2. Site plans involving uses that are subject to Conditional Land Use Approval require a public hearing, pursuant to the requirements in Section 28.02.

B. Planning Commission Review and Approval by City Council

The Planning Commission shall review the site plan proposal together with any public hearing findings, reports and recommendations from the Planning and Community Development Department and any from other reviewing agencies. The Planning Commission shall then recommend that the City Council approve, approve with conditions, or deny, the proposal as follows:

1. **Approval**
   Upon determination that a site plan is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the City Council shall approve the site plan.--Site plan approval does not exempt the proposed development from any other applicable City Codes.

2. **Approval Subject to Conditions**
   Upon determination that a site plan is in compliance except for minor modifications, the City Council may impose reasonable conditions upon the approval of the site plan. The conditions for approval shall be identified and the applicant shall be given the opportunity to correct the site plan.

   If a plan is recommended for approval by the Planning Commission subject to conditions, the applicant shall submit a revised plan with a revision date, indicating compliance with the conditions. The applicant may re-submit the site plan to the City Council for approval after conditions have been met.

Conditional site plan approval does not exempt the proposed development from any other applicable City Codes.

3. **Denial**
   Upon determination that a site plan does not comply with the standards and regulations set forth in this Article or elsewhere in this Ordinance, or requires extensive revision in order to comply with said standards and regulations, the City Council shall deny the site plan and set forth its reasons in writing.

C. Recording of Site Plan Review Action

Each action taken on a site plan review and the grounds for action shall be recorded in the minutes of the Planning Commission and City Council.

After final action has been taken on a site plan and all steps have been completed, copies of the application and plans shall be marked APPROVED or DENIED, as appropriate, with the date that

action was taken. One (1) marked copy shall be returned to the applicant and at least one (1) copy shall be kept on file in the Planning and Community Development Department.

D. Procedure After Site Plan Approval

1. **Application for Building Permit**
Following final approval of the site plan by the City Council or the Planning and Community Development staff, the applicant may apply for a building permit. The City may require engineering approval prior to issuance of the building permit. It shall be the responsibility of the applicant to obtain all other applicable City, County, State, or Federal permits prior to issuance of a building permit.

A building permit for a structure in a proposed condominium project shall not be issued until evidence of a recorded Master Deed has been provided to the City. However, the Building Official may issue permits for site grading, erosion control, installation of public water and sewage facilities, and construction for roads prior to recording the Master Deed. No permit issued or work undertaken prior to recording the Master Deed pursuant to this Section shall grant any rights or any expectancy interest in the approval of the Master Deed. The Master Deed shall contain provisions describing the responsibilities of the condominium association, condominium owners, and public entities, with regard to maintenance of the property in accordance with the approved site plan on a continuing basis. The Master Deed shall further establish the means of permanent financing for required maintenance and improvement activities which are the responsibility of the condominium association

2. **Expiration of Site Plan Approval**
If construction has not commenced within two (2) years of final approval of the site plan, the site plan approval becomes null and void and a new application for site plan review shall be required. The applicant may apply in writing to the City Council for an extension of the site plan approval. The City Council may grant an extension of up to twelve (12) months if:

   a. The applicant requests the extension prior to expiration of the previous approval, and

   b. The approved site plan adequately represents current conditions on and surrounding the site, and

   c. The site plan conforms to the current Zoning Ordinance standards.

3. **Monuments Requirements for Condominium Projects**
All condominium projects shall be marked with monuments as required by Condominium Rules promulgated to the Michigan Department of Commerce, Corporation and Securities Bureau, and as may also be required by the engineering standards enforced by the City of Midland.

4. **Recorded and As-Built Condominium Documents**
Upon approval of the site plan for a condominium project involving new construction, the condominium project developer or proprietor shall furnish the City with the following:

   a. One (1) copy of the recorded Master Deed, and

   b. One (1) copy of any Condominium Bylaws and restrictive covenants.

Upon completion of the project, the condominium project developer or proprietor shall furnish the City with the following:

c. Two (2) copies of an "as built survey", and

d. One (1) copy of the site plan.

E. Modification to Approved Plan

Minor modifications to an approved site plan may be approved by the Planning and Community Development staff.

1. **Minor Modification Defined**

Minor modifications are changes that do not substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demand for public services, the danger from hazards, or the provision of any bonus item. Examples of minor modifications include:

a. An addition to an existing commercial or industrial building that does not increase the floor space by more than twenty-five percent (25%) or seventy five hundred (7,500) square feet, whichever is less.

b. Changes to building height that do not add an additional floor.

c. Alterations or modifications involving less than twenty-six (26) parking spaces.

d. Substitution of landscaping for equivalent species of landscaping.

e. Off-site improvements that individually would otherwise be approved administratively by the city and that add to the safety, appearance or functionality of the approved site plan being amended.

The construction of a new building or structure with 7,500 square feet or more of gross floor area, adding twenty six (26) or more parking spaces, or deleting parking or the addition of curb cuts onto a public road are examples of modifications which are not considered minor. If the modifications are not deemed minor by the Planning and Community Development staff, then full review and approval by the Planning Commission and City Council shall be required.

2. **Recording of Action**

Each action related to modification of a site plan shall be duly recorded in writing on a copy of the approved plan, and shall be kept on file. The City Council shall be advised of all minor site plan modifications approved by the Planning and Community Development staff and such modifications shall be noted on the site plan.

Section 27.05 -- REQUIRED INFORMATION ON SITE PLANS

Where applicable, the following information shall be included on all site plans or supporting documentation:

A. Application

The application shall contain the following information at minimum:

1. Applicant's name, address, phone number, fax number, and e-mail address.
2. Name, address and signature of property owner, if different from applicant.
3. Common description of property and complete legal description including the Tax Identification number.
4. Dimensions of land and total acreage.
5. Existing zoning of applicant's parcel and surrounding land.
6. Existing use of the applicant's parcel and surrounding land.
7. Proposed use of land and name of proposed development, if applicable.
8. Proposed buildings to be constructed, including square feet of gross and usable floor area.
9. Number of permanent employees, if applicable.
10. Names, addresses, and telephone numbers of engineers, attorneys, architects, and other professionals associated with the project.
11. Review comments and/or approvals from County, State, and Federal agencies. Copies of letters or approval forms should be submitted with the site plan application.

B. Descriptive and Identification Data

Site plans shall consist of an overall plan for the entire development, drawn to a scale of not less than 1 inch = 20 feet for property less than 1 acre, 1 inch = 30 feet for property larger than 1 acre but less than 3 acres, and 1 inch = 50 feet for property larger than 3 acres, unless another scale is approved by the Planning and Community Development staff. The following descriptive and identification information shall be included on all plans:

1. Applicant's name and address, and telephone number.
2. Title block indicating the name of the development.
3. Scale.
4. North point.
5. Dates of submission and revisions (month, day, year).
6. Location map with north point.
7. Legal and common description of property, including acreage.
8. The dimensions of all lots and property lines, showing the relationship of the site to abutting properties. If the site is a part of a larger parcel the plan should indicate the boundaries of total land holding.
9. A schedule for completing the project, including the phasing or timing of all proposed developments.
10. Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared plan.
11. Written description of proposed land use.
12. Proximity to driveways serving adjacent parcels.
13. Proximity to nearest cross street.
14. Proximity to the Tri-City Joint Airport Zoning Ordinance approach zones.
15. Notation of any variances which have been granted or will be sought.
16. Net acreage (minus rights-of-way and bodies of water) and total acreage, to the nearest 1/10 acre.

C. Site Data

1. Existing lot lines, building lines, structures, parking areas, and other improvements on the site and within fifty (50) feet of the site.
2. Front, side, and rear setback dimensions.
3. Topography on the site and within fifty (50) feet of the site at two foot contour intervals, referenced to a U.S.G.S. benchmark.

4. Proposed site features, including buildings, roadway widths and names, and parking areas.
5. Dimensions and centerlines of existing and proposed roads and road rights-of-way.
6. Proposed vehicular circulation system, including location of driveway entrances, roads, and on-site driveways.
7. The location of all driveways on all adjacent and abutting properties within 300 ft. of the property lines.
8. Typical cross-section of proposed roads and driveways.
9. Location of existing drainage courses, floodplains, lakes and streams, with elevations.
10. Location of wetland boundaries, if state-regulated and name of person who staked the boundaries and his /her qualifications.
11. Location of existing and proposed interior sidewalks and sidewalks in the road right-of-way.
12. Exterior lighting locations and method of shielding lights from shining off the site.
13. Photometric plan showing all lighting on the site (including decorative lighting).
14. Trash receptacle locations and method of screening, if applicable.
15. Transformer pad location and method of screening, if applicable.
16. Parking spaces, typical dimensions of all spaces (including barrier-free spaces), indication of total number of spaces, drives, and method of surfacing.
17. Information needed to calculate required parking in accordance with Zoning Ordinance standards (e.g., building square footage, number of employees).
18. Information needed to determine compliance with all sign regulations, if applicable, as set forth in Article 8.00.
19. The location of lawns and landscaped areas.
20. Landscape plan, including location, size, type and quantity of proposed shrubs, trees and other live plant material and the location, sizes, and types of existing trees five (5) inches or greater in caliper, measured at four (4) feet above native grade, before and after proposed development.
21. Cross-section or slope of proposed berms.
22. Location and description of all easements for public rights-of-way, utilities, access, shared access, and drainage.
23. Designation of fire lanes.
24. Loading/unloading area.
25. The location of any outdoor storage and the manner by which it will be screened.
26. The location of bike racks.

D. Building and Structure Details

1. Location, height, and outside dimensions of all proposed buildings and structures.
2. Indication of the number of stores and number of commercial or office units contained in the building, if applicable.
3. Total floor area.
4. Location, size, height, and lighting of all proposed signs.
5. Proposed fences and walls, including typical cross-section and height above the ground on both sides.
6. Building facade elevations.
7. Sign elevations and locations.

E. Information Concerning Utilities, Drainage, and Related Issues

1. Schematic layout and description of existing and proposed sanitary sewers, sewage treatment systems, water mains, and water service leads; hydrants that would be used by public safety personnel to service the site; storm sewers and drainage facilities, including the location of retention/detention facilities; and the location of gas, electric, and telephone lines.
2. General indication of site grading and drainage patterns.
3. Types of soils and location of floodplains and wetlands, if applicable.

4. Soil erosion and sedimentation control measures.

F. Information Concerning Residential Development

1. The number, type and location of each type of residential unit (one bedroom units, two bedroom units, etc.)
2. Density calculations (dwelling units per acre).
3. Lot coverage calculations.
4. Impervious surface calculations.
5. Floor plans of typical buildings with square feet of floor area.
6. Garage and carport locations and details, if proposed.
7. Sidewalks and trail locations and widths.
8. Location and names of roads and internal drives with an indication of how the proposed circulation system will connect with the adjacent public roads.
9. Community building locations, dimensions, and facade elevations, if applicable.
10. Swimming pool fencing detail, including height and type of fence, if applicable.
11. Location and size of recreation open areas.
12. Indication of type of recreation facilities proposed for recreation area.
13. If common area or community buildings are proposed, then the site plan should indicate the responsibilities of the subdivision or condominium association, property owners, or other public entity, with regard to maintenance of the common areas or community property on a continuing basis.

G. Information Applicable to Manufactured or Mobile Home Parks

1. All information required by Section 16.03.A.1

H. Additional Information

1. **Information Related to Condominium Development**
   The following information shall be provided with all site plans involving condominium development:

   a. Condominium documents, including the proposed Master Deed, restrictive covenants, and condominium bylaws.

   b. Condominium subdivision plan requirements, as specified in Section 66 of Public Act 59 of 1978, as amended, and Rule 401 of the Condominium Rules promulgated by the Michigan Department of Commerce, Corporation and Securities Bureau.

2. **Items Not Applicable**
   If any of the items listed are not applicable to a particular site, the following information should be provided on the site plan:

   a. A list of all items considered not applicable. Planning and Community Development staff shall have the authority to determine items that may be waived from the site plan review.

   b. The reason(s) why each listed item is not considered applicable.

3. **Other Data Which May Be Required**
   Other data may be required if deemed necessary by the City staff or the Planning Commission to determine compliance with the provisions in this Ordinance. Such information may include traffic impact studies (in accordance with Section 3.10 l), environmental assessment and evaluation of the demand on public facilities and services.

Section 27.06 -- STANDARDS FOR SITE PLAN APPROVAL

A. Standards

The following criteria shall be used as a basis upon which site plans will be reviewed and approved:

1. **Adequacy of Information**
   The site plan shall include all required information in sufficiently complete and understandable form to provide and accurate description of the proposed uses and structures.

2. **Site Design Characteristics**
   All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of parcel, the character of adjoining property, and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted by this Ordinance.

3. **Appearance**
   Landscaping, earth berms, fencing, signs, walls and other similar site features shall be designed and located on the site so that the proposed development is aesthetically pleasing and harmonious with nearby existing or future developments.

4. **Compliance with District Regulations**
   The site plan shall comply with the district requirements for height of building, lot size, lot coverage, density, and all other requirements set forth in the Schedule of Regulations (Article 26.00) unless otherwise provided in this Ordinance.

   a. **Site Condominiums**
      In the case of site condominiums, the boundaries of each condominium unit may encompass an area that is at least equivalent to the minimum lot area requirements. Alternatively, these regulations may be applied by requiring that the site condominium unit shall be equivalent to the area of the lot where a principal building can be constructed (equivalent to a building envelope) and there shall be a limited common element associated with each site condominium unit so that said condominium unit and associated limited common element shall be at least equivalent to the minimum lot area requirements.

      In addition, site condominium projects shall comply with all applicable design standards which have been developed for similar types of development in the City, as described in the Zoning Ordinance and other applicable local county, and state ordinances, laws and regulations, including but not necessarily limited to requirements for streets, blocks, lots, utilities, and storm drainage. These requirements and specifications are hereby incorporated and are made a part of this Ordinance by reference.

   b. **Detached Condominiums**
      In the case of detached condominiums, these regulations shall be applied by requiring that the detached condominium units comply with the requirements governing minimum distance between buildings, attachment of buildings, and other applicable requirements for the district in which the project is located. Furthermore, proposed detached condominium projects shall not exceed the maximum permitted density for the district in which the project is located, as determined on the basis of minimum lot size standards in Article 26.00.

      In addition, detached condominium projects shall comply with all applicable design standards which have been developed for similar types of development in the City, as described in the Zoning Ordinance and other applicable local, county, and state

ordinances, laws and regulations, including but not necessarily limited to requirements for streets, blocks, lots, utilities, and storm drainage. These requirements and specifications are hereby incorporated and are made a part of this Ordinance by reference.

5. **Preservation and Visibility of Natural Features**
   Natural features shall be preserved as much as possible, by minimizing tree and soil removal alteration to the natural drainage course and the amount of cutting, filling, and grading.

6. **Privacy**
   The site design shall provide reasonable visual and sound privacy. Fences, walls, barriers, and landscaping shall be used, as appropriate if permitted, for the protection and enhancement of property and the safety and privacy of occupants and uses.

7. **Emergency Vehicle Access**
   All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.

8. **Ingress and Egress**
   Every structure or dwelling unit shall be provided with adequate means of ingress and egress via public or private streets and pedestrian walkways.

9. **Pedestrian Circulation**
   Each site plan shall provide a pedestrian circulation system which is insulated as completely as is reasonably possible from the vehicular circulation system.

10. **Vehicular and Pedestrian Circulation Layout**
    The layout of vehicular and pedestrian circulation systems shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site. The width of streets and drives shall be appropriate for the volume of traffic they will carry in accordance with subsection 3.10. In order to insure public safety and promote efficient traffic flow and turning movements, the applicant may be required to limit street access points or construct a secondary access road.

11. **Parking.**
    The proposed development shall provide adequate off-street parking in accordance with the requirements in Article 5.00 of this ordinance. Provisions shall be made for bike racks according to the standards contained in Planning and Urban Design Standards, APA, 2006 as amended.

12. **Drainage**
    The project must comply with the City's Stormwater Ordinance.

13. **Soil Erosion and Sedimentation**
    The proposed development shall include measures to prevent soil erosion and sedimentation during and upon completion of construction, in accordance with current State, County, and City standards.

14. **Exterior Lighting**
    Exterior lighting shall be designed so that it is deflected away from adjoining properties and so that it does not impede vision of drivers along adjacent streets and comply with the provisions in Section 3.12.

15. **Public Services**
    Adequate services and utilities, including water, sewage disposal, sanitary sewer, and stormwater control services, shall be available or provided, and shall be designed with

sufficient capacity and durability to properly serve the development. All streets and roads, water, sewer, and drainage systems, and similar facilities shall conform to the design and construction standards of the City.

16. **Screening**
    Off-street parking, loading and unloading areas, outside refuse storage areas, and other storage areas shall be screened by walls or landscaping of adequate height and shall comply with Articles 6.00 and 7.00 of this Ordinance. All roof-top mechanical equipment shall be screened from view from all residential districts and public roadways.

17. **Health and Safety Concerns**
    Any use in any zoning district shall comply with all applicable public health, pollution, and safety laws and regulations. Sites within the jurisdiction of the Tri-City Joint Airport Zoning ordinance.

18. **Sequence of Development**
    All development phases shall be designed in logical sequence to insure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon subsequent improvements in a later phase or on other sites.

19. **Coordination with Adjacent Sites**
    All site features; including circulation, parking, building orientation, landscaping, lighting, utilities, common facilities, and open space shall be coordinated with adjacent properties.

20. **Signs.**
    All proposed signs shall be in compliance with the regulations in Article 8.00 of this Ordinance.

Section 27.07 -- FILING FEES

All applications shall be accompanied by a filing fee which shall be established by resolution of the City Council, found in Chapter 21 of the City of Midland Code of Ordinances.

ARTICLE 28.00

CONDITIONAL LAND USE

Section 28.01 -- INTENT

The procedures and standards in this Section are intended to provide a consistent and uniform method for review of proposed plans for conditional land uses. Conditional land uses are uses, either public or private, that possess unique characteristics and therefore cannot be classified as a permitted use in a particular zoning district (see Definitions, Section 2.02). This Article contains standards for review of each conditional land use proposal individually on its own merits to determine if it is an appropriate use for the district and specific location where it is proposed.

Section 28.02 – PROCEDURES AND REQUIREMENTS

Conditional land use proposals shall be reviewed in accordance with the procedures in Article 27.00 for site plan review, except as follows:

A. Public Hearing Required

A public hearing shall be scheduled and held by the Planning Commission before a recommendation is made on a conditional land use request. One notice of the public hearing shall be published in a newspaper which circulates in the City, and 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 within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. The notice shall be given not less than 15 days before the date the application will be considered, in accordance with the provisions in Sec. 502 (2) of the Michigan Zoning Enabling Act, PA 110 of 2006 as amended. The notice shall:

1. Describe the nature of the conditional land use request.

2. Indicate the property which is the subject of the conditional land use request.

3. State when and where the conditional land use request will be considered.

4. Indicate when and where written comments will be received concerning the request.

5. Indicate the date, time, place and purpose of the public hearing.

B. Planning Commission Action

The Planning Commission shall review the application for conditional land use in accordance with the procedures in this Article, together with the public hearing findings and reports and recommendations from the Planning and Community Development staff, City Engineering Department, Midland County Road Commission, Midland County Health Department, Midland County Drain Commissioner, Fire Department, City of Midland City Police Department and other reviewing agencies. The Planning Commission shall then make a recommendation to the City Council, solely based on the requirements and standards of this Ordinance. The Planning Commission shall submit to the City Council a written recommendation of approval, denial, or approval with conditions within forty-five (45) days of the close of the public hearing required for a conditional land use proposal.

C. Recording of Planning Commission Action

Each action taken with respect to a conditional land use shall be duly recorded in the minutes of the Planning Commission. The minutes shall record the findings of fact relative to each conditional land use proposal, the grounds for the action taken, and any conditions imposed in conjunction with approval.

D. City Council Action

A public hearing shall be scheduled and held by the City Council before a decision is made on a conditional land use request. One notice of the public hearing shall be published in a newspaper which circulates in the City, and 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 within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. The notice shall be given~~,~~ in accordance with the provisions of the Michigan Zoning Enabling Act, P.A. 110 of 2006**,** as amended.

The notice shall:

1. Describe the nature of the conditional land use request.

2. Indicate the property which is the subject of the conditional land use request.

3. State when and where the conditional land use request will be considered.

4. Indicate when and where written comments will be received concerning the request.

5. Indicate the date, time, place and purpose of the public hearing.

The City Council is authorized to approve, approve with conditions, or deny a conditional land use proposal as follows:

1. **Approval**
   Upon determination that a conditional land use proposal is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, approval shall be granted.

2. **Approval with Conditions**
   The City Council may impose reasonable conditions with the approval of a conditional land use. The conditions may include provisions necessary to insure that public services and facilities affected by a proposed conditional land use or activity will be capable of accommodating increased service and facility loads generated by the new development, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

   a. Conditions shall be designed to protect natural resources, the health, safety, welfare, and social and economic well being of those who will 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. Conditions shall be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.

   c. Conditions shall be necessary to meet the intent and purpose of the Zoning Ordinance, related to the standards established in the Ordinance for the land use or

activity under consideration, and necessary to insure compliance with those standards.

3. **Denial**
Upon determination by the City Council that a conditional land use proposal does not comply with the standards and regulations set forth in this Ordinance, or otherwise will be injurious to the public health, safety, welfare, or orderly development of the City, a conditional land use proposal shall be denied.

The City Council decision on a conditional land use shall be incorporated in a written statement of findings relative to the conditional land use under consideration. Said findings shall specify the reasons for the decision and any conditions imposed. Upon the recommendation of denial by the Planning Commission, the approval of a conditional land use shall require a four-fifths (4/5) vote of the City Council.

E. Effect of Approval

Upon approval, a conditional land use shall be deemed permitted in the district in which it is proposed, subject to any conditions imposed and final approval of the site plan. Such approval shall affect only the lot or portion thereof on which the proposed use is located. Such approval shall remain valid regardless of change of ownership.

F. Expiration of Conditional Land Use Approval

If construction has not commenced within twelve (12) months of final approval the approval becomes null and void and a new application for conditional land use approval shall be required. Upon written request from the applicant prior to expiration of the previous approval, a twelve (12) month extension may be granted by the City Council, if it finds that the approved conditional land use application and site plan adequately represent current conditions on and surrounding the site and provided the site plan conforms to current zoning ordinance standards. The written request for extension shall be received by the Planning and Community Development Department or post marked prior to the expiration date or a new application for conditional land use review will be required.

G. Administrative Review and Site Inspection

An administrative review and site inspection shall be conducted within one (1) year of the date of City Council approval to ensure compliance with the conditions of the approved conditional land use permit.

H. Modification to Approved Conditional Land Use

Conditional Land Uses approved in accordance with provisions of this Section may subsequently be modified, subject to the following requirements:

1. Site modifications that do not change the nature of the use or that do not affect the intensity of use may be reviewed and approved following normal site plan review procedures described in Article 27.00. In evaluating change in intensity of use, the staff shall consider the extent of increase of vehicular or pedestrian traffic, the change in demand for public services, extent to which the total floor area occupied by the proposed use will increase, increased demand for parking, off-site impacts from noise, fumes, drainage, etc., and similar considerations.

2. Modifications that change the nature of the use or that result in an increase in the intensity of the use shall be reviewed in the same manner as a new conditional land use proposal, following the procedures in this Section.

I. Revocation of Conditional Land Use Approval

Compliance with the conditions of conditional land use approval shall be a continuing obligation of the applicant and any subsequent owner. Approval of a conditional land use may be revoked by the City Council if construction is not in conformance with the approved plans or if the use is not being operated in compliance with the required conditions. Written notice shall be provided to the applicant at least five (5) days prior to the meeting at which the case will be considered. The applicant shall be given the opportunity to present information and to answer questions. The City Council may revoke approval if it finds that a violation exists and has not been remedied prior to the hearing. After revocation notice has been given the use for which the permit was granted shall cease within thirty (30) days or be subject to the penalties described in Section 31.07.

J. Performance Guarantee

The Planning Commission may require that a performance guarantee be deposited with the City to ensure faithful completion of the improvements, in compliance with Section 3.14.

K. Termination

Termination of the exercising of the authority granted under a conditional land use approval for a period of more than six (6) months will void any such approval.

SECTION 28.03 – STANDARDS FOR GRANTING CONDITIONAL LAND USE APPROVAL

Approval of a conditional land use proposal shall be based on the determination that the proposed use will be consistent with the intent and purposes of this Ordinance, will comply with all applicable requirements of this Ordinance, including site plan review criteria set forth in Article 27.00, applicable site development standards for specific uses set forth in Article 9.00, and the following standards:

A. Non-Discretionary Standards

1. The conditional land use shall be in accord with the provisions of the Zoning Ordinance of the City of Midland.

2. Compliance with all of the standards in Section 27.06.A.

3. Access to the proposed development shall be in accordance with the following:

    a. Driveway and curb cuts found in Sec. 22-55.1, 22.55-2, and 22-55.3 of the Code of Ordinances of the City of Midland and administrative rules relating thereto.

    b. Requirements relating to streets, both public and private, as set forth in the Subdivision Control Regulations, Chapter 23, Code of Ordinances of the City of Midland.

4. Adequate provision is made for fire protection within the site in accordance with Chapter 8 of the Code of Ordinances of the City of Midland

B. Discretionary Standards

1. **Protection of the Public Health, Safety, and General Welfare**
   The establishment or maintenance of the conditional use shall not be detrimental to the public health, safety, or general welfare.

2. **Compatibility With Surrounding Uses**
The conditional use shall be located, designed, maintained and operated to be compatible with the existing or intended character of that zoning district and adjacent districts. In determining whether this requirement has been met, consideration shall be given to:

a. The location and screening of vehicular circulation and parking areas in relation to surrounding development.

b. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.

c. The hours of operation of the proposed use. Approval of a conditional land use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.

d. The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses. Any proposed building shall be compatible with the predominant type of building in the particular district in terms of size, character, location or proposed use.

e. Proposed landscaping and other site amenities. Additional landscaping over and above the requirements of this Ordinance may be required as a condition of approval of a conditional land use.

f. Hours of operation shall be compatible with the surrounding neighborhood.

3. **Detrimental Effects**
The proposed conditional land use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental or hazardous to persons or property or to public health, safety, and welfare. In determining whether this requirement has been met, consideration shall be given to the level of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light.

4. **Impact of Traffic**
The location of the proposed conditional land use within the zoning district shall minimize the impact of the traffic generated by the proposed use. In determining whether this requirement has been met, consideration shall be given to the following:

a. Proximity and access to major thoroughfares and other public streets.

b. Estimated traffic generated by the proposed use.

c. Proximity and relation to intersections,

d. Adequacy of driver sight distances.

e. Location of and access to off-street parking.

f. Required vehicular turning movements.

g. Provisions for pedestrian traffic.

5. **Adequacy of Public Services**

The proposed conditional land use shall be located so as to be adequately served by essential public facilities and services, such as highways, streets, police and fire protection, drainage systems, water and sewage facilities, and schools, unless the proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the conditional land use is established.

6. **Protection of Site Characteristics**
The conditional use shall preserve and incorporate the site's important architectural, natural and scenic features into the development design.

7. **Compatibility with Natural Environment**
The proposed conditional land use shall be compatible with the natural environment and conserve natural resources and energy, and cause minimal adverse environmental effects.

8. **Compatibility with the Master Plan and Intent of Zoning Ordinance**
The proposed conditional land use shall be consistent with the general principles and objectives of the City's Master Plan and shall promote the intent and purpose of this Ordinance and of the use district.

Section 28.04 -- FILING FEES

All applications shall be accompanied by a filing fee established by the City Council, found in Chapter 21 of the City of Midland Code of Ordinances. The approval process should not begin until the filing fee is paid. Upon notification of deficient payment of fees, administrative officials charged with enforcement of the Ordinance shall suspend further review of the application.

A schedule of the current filing fees and deposit requirements shall be made available in the office of the Planning and Community Development Department.

The assessment and payment of application fees does not affect the requirements for a performance guarantee as specified in Section 3.14.

There shall be no fee in the case of application filed in the public interest by a municipal department or City Official.

ARTICLE 29.00

VARIANCES AND APPEALS

Section 29.01 – INTENT

The purpose of this Section is to provide guidelines and standards to be followed by the Zoning Board of Appeals to act on matters where this Ordinance or state law gives jurisdiction to the Zoning Board of Appeals.

Section 29.02 -- AUTHORITY OF THE ZONING BOARD OF APPEALS

A. General Authority

The Zoning Board of Appeals shall have the authority to act on those matters where this Ordinance provides for appeal of an administrative order or interpretation and shall have authority to authorize a variance as defined in this Ordinance and laws of the State of Michigan. Such authority shall be subject to the rules and standards in this Section. The Zoning Board of Appeals shall not have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of this Ordinance.

B. Administrative Review

Except for conditional land use approval, the Zoning Board of Appeals shall have authority to hear and decide appeals where it is alleged that there is an error in an order, requirement, permit, decision, or refusal made by an official, board, or commission in carrying out or enforcing any provisions of this Ordinance. Such appeal shall be requested by the applicant within thirty (30) days of the date of the order, refusal, requirement, or determination being appealed. In hearing and deciding appeals under this sub-section, the Zoning Board of Appeals review shall be based upon the record of the administrative decision being appealed. If new information is presented, the official, board or commission from whom the appeal is taken should first review the revised application and make a decision, which may be then appealed under this section.

C. Interpretation

The Zoning Board of Appeals shall have authority to hear and decide requests for interpretation of the Zoning Ordinance, including the zoning map. The Zoning Board of Appeals shall make such decisions so that the spirit and intent of this Ordinance shall be observed.

Text interpretations shall be limited to the issues presented, and shall be based upon a reading on the Ordinance as a whole, and shall not have the effect of amending the Ordinance.

Map interpretations shall be made based upon rules in the Ordinance, and any relevant historical information. In carrying out its authority to interpret the Ordinance, the Zoning Board of Appeals shall consider reasonable and/or practical interpretations which have been consistently applied in the administration of the Ordinance. Prior to deciding a request for an interpretation, the Zoning Board of Appeals may confer with City staff and consultants to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment to the Ordinance.

D. Variances

The Zoning Board of Appeals shall have authority in specific cases to authorize one or more dimensional or "non-use" variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (i.e., height, bulk, setback) requirements of the Ordinance. A use variance authorizes the establishment of a use of land that is otherwise prohibited in a zoning district. The Zoning Board of Appeals is authorized to grant use variances by this Ordinance.

Such authority shall be exercised in accordance with the following standards:

1. The Zoning Board of Appeals may grant a requested "non-use" variance only upon a finding that practical difficulties exist. A finding of practical difficulties is when the applicant has demonstrated <u>all</u> of the following:

    a. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.

    b. The variance will do substantial justice to the applicant, as well as to other property owners.

    c. The variance requested is the minimum variance needed to provide substantial relief to the applicant and/or be consistent with justice to other property owners.

    d. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.

    e. The problem and resulting need for the variance has been created by strict compliance with the Zoning Ordinance, not by the applicant or the applicant's predecessors.

2. The Zoning Board of Appeals may grant a requested "use" variance only upon finding that an unnecessary hardship exists. An unnecessary hardship is when the restrictions of the zoning ordinance on the property, when its environment is considered, is so unreasonable as to constitute an arbitrary and capricious interference with basic private property rights. A "use" variance is a variance that permits a use that is otherwise prohibited in a zoning district. A finding of unnecessary hardship shall require demonstration by the applicant of <u>all</u> of the following:

    a. The property cannot be reasonably used for any purpose permitted in the zoning district without a variance.

    b. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.

    c. The variance will not alter the essential character of the area. In determining whether the effect the variance will have on the character of the area, the established type and pattern of land uses in the area and the natural characteristics of the site and surrounding area will be considered.

    d. The problem and resulting need for the variance has not been self-created by the applicant.

3. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the Zoning Board of Appeals may make the required findings.

E. Conditions

The Zoning Board of Appeals may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or variance request. The conditions may include requirements necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, and to insure compatibility with adjacent uses of land. Conditions imposed shall meet the following requirements:

1. Be designed to protect natural resources, the health, safety and welfare of those who will use the land use or activity under consideration, residents and surrounding property owners, and the community as a whole.

2. Be related to the valid exercise of the City's police power, the ability to protect health, safety and welfare endowed to local governments by the Constitution of the United States, and purposes which are affected by the proposed use or activity.

3. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

Conditions imposed with respect to the approval of a variance shall be recorded as part of the Zoning Board of Appeals minutes, and shall remain unchanged except upon the approval of the Zoning Board of Appeals following notice and hearing as required in a new case.

F. Performance Guarantee

The Zoning Board of Appeals may require that a performance guarantee be deposited with the City to ensure faithful completion of the improvements, in compliance with Section 3.14.

Section 29.03 -- APPLICATIONS AND NOTICES

A. Application

An application to the ZBA, in cases in which it has original jurisdiction under the provisions of this Ordinance, may be made by a person or property owner, including a tenant, or by a governmental officer, board, department or bureau.

All applications to the Zoning Board of Appeals shall be filed with the Planning and Community Development Department, on forms provided by the City, and shall be accompanied by the applicable fee as established in Chapter 21 of the Code of Ordinances. The ZBA shall not consider any application until said sum has been paid by the applicant. Applications shall include items required by sub-sections B, C, and D below. Applicants shall provide all plans, studies, and other relevant information to be considered by the ZBA.

The Zoning Board of Appeals shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed, including relevant plans, studies, and other information.

B. Plot Plan

A plot plan shall be required with all variance requests. The plan shall be to scale and shall include all property line and dimensions, setbacks and all existing and proposed structures. Where an application provides a variance sought in conjunction with a regular site plan review, a site plan prepared according to Article 27.00 shall satisfy the requirements of this section.

The Zoning Board of Appeals has the authority to require a land survey prepared by a professional surveyor or registered engineer if the Zoning Board of Appeals determines it to be necessary to insure accuracy of the plan.

C. Applications Involving an Appeal of Administrative Order

In a case involving an appeal from an action of an administrative official or entity (as specified in section 29.02, subsection B), the administrative official, or the clerk or secretary of the administrative entity, as the case may be, shall transmit to the Zoning Board of Appeals copies of all papers constituting the record upon which the action was taken, together with a letter specifying an explanation of the action taken.

D. Consent of Property Owner Required

Applications for a variance shall be made with the full knowledge and written consent of all owners of the property in question. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.

E. Hearing and Notice

The City, upon receipt of an application or an appeal for an area or dimension variance, a use variance, or ordinance interpretation, or a conditional land use approval, shall fix a reasonable time for a hearing.

All hearings shall be advertised in a local newspaper at least fifteen (15) days prior to the hearing. Except for an Ordinance interpretation, the Zoning Board of Appeals shall give notice delivered at least fifteen (15) days before the time fixed for such appeals to all interested parties. For purposes of this subsection, interested parties shall include the applicant(s) and owners of record of property and the occupants of all single-family, two-family, and multiple-family dwellings within three hundred (300) feet of the premises in question and other persons specified by the Zoning Board of Appeals. Notice to property owners shall be mailed to the address given in the most recent assessment role.

The Zoning Board of Appeals shall decide the application or appeal within sixty (60) days of the hearing date and shall promptly mail a copy of its decision to the applicant or appellant.

F. Stay of Proceedings

An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed unless the officer or entity from whom the appeal is taken certifies to the Zoning Board of Appeals that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed unless specifically determined by the Zoning Board of Appeals, or by a court of competent jurisdiction.

G. Decision by the Zoning Board of Appeals

The concurring vote of a majority of the full membership of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, board or commission made in the administration of this ordinance, and to decide in favor of an applicant on any matter upon which the Zoning Board of Appeals is required to pass under this ordinance except that a concurring vote of 2/3 of the full membership of the board shall be necessary to grant a “use” variance from the terms of this ordinance.

Section 29.04 -- DISPOSITION AND DURATION OF APPROVAL

A. Zoning Board of Appeals Powers

The Zoning Board of Appeals may reverse, affirm, vary or modify any order, requirement, decision, or determination presented in a case within the Zoning Board of Appeals' jurisdiction, and to that end, shall have all of the powers of the officer, board or commission from whom the appeal is taken, subject to the Zoning Board of Appeals' scope of review, as specified in this Ordinance or by law. The Zoning Board of Appeals may remand a case for further proceedings and decisions.

B. Decision Final

A decision by the Zoning Board of Appeals shall be considered final as of the meeting at which the decision has been made, and the date of such meeting shall be deemed to be the date of notice of the decision to the applicant. To the extent that decisions are requested or required to be in writing, the minutes of the Zoning Board of Appeals meeting, and decision, as proposed under supervision of the secretary, shall constitute the written decision, even if the minutes are awaiting final Zoning Board of Appeals approval.

C. Period of Validity

Any decision of the Zoning Board of Appeals favorable to the applicant shall remain valid only as long as the information and data relating to such decision are found to be correct, and the conditions upon which the decision was based are maintained. The relief granted by the Zoning Board of Appeals shall be valid for a period not longer than six (6) months, unless otherwise specified by the Zoning Board of Appeals, and within such period of effectiveness, actual on-site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, shall be commenced or the grant of relief shall be deemed void.

D. Record of Proceedings

The Planning and Community Development Department staff, under the supervision of the secretary of the Zoning Board of Appeals, shall prepare and keep minutes of the Zoning Board of Appeals proceedings, showing the findings, decisions, conditions, if any, and votes of each member in each case, including a member's absence or failure to vote. The minutes shall be within the ultimate authority, and shall be the responsibility, of the secretary of the Zoning Board of Appeals, and shall be subject to approval of the Zoning Board of Appeals.

The official records of the Zoning Board of Appeals proceedings shall be filed in the City Hall and shall be public records.

E. Appeal of a Zoning Board of Appeals Decision

All decisions of the Zoning Board of Appeals shall be final. However, any person objecting to such a decision of the Zoning Board of Appeals may appeal to the Circuit Court within 90 days of the final decision.

F. New Application for Variance

If the Zoning Board of Appeals denies a request for a variance, the decision of the Zoning Board of Appeals shall not be subject to re-consideration for a period of one (1) year, whereupon the applicant may submit a new application for the variance. However, the Zoning Board of Appeals may waive the one year period if conditions upon which its original decision was made change or if information relating to its original decision are found to be incorrect or inaccurate.

Section 29.05 -- FILING FEES

All applications shall be accompanied by a filing fee which shall be established by resolution of the City Council, found in Chapter 21 of the City of Midland Code of Ordinances.

A schedule of the current filing fees and deposit requirements shall be made available in the office of the Planning and Community Development Department.

The assessment and payment of application fees does not affect the requirements for a performance guarantee as specified in Section 3.14.

There shall be no fee in the case of application filed in the public interest by a municipal department or City Official.

ARTICLE 30.00

AMENDMENTS

Section 30.01 -- INITIATION OF AMENDMENT

The City Council may amend, supplement, or change the district boundaries or the regulations herein, pursuant to the authority and procedures set forth in Michigan Public Act 110 of 2006, as amended. Text amendments may be proposed by any governmental body or any interested person or organization. Changes in district boundaries may be proposed by any governmental body, any person having a freehold interest in the subject property, or by the designated agent of a person having a freehold interest in the property.

Section 30.02 -- APPLICATION FOR AMENDMENT

A petition for an amendment to the text of this Ordinance or an amendment to change the zoning classification of a particular property, shall be commenced by filing a petition on the forms provided by the Planning and Community Development Department and accompanied by the fees specified by the City Council. The petition shall describe the proposed amendment and shall be signed by the applicant. Petitions for rezoning of a specific site shall be accompanied by a plot plan or survey, which shall contain the following information:

1. Applicant's name, address, and telephone number.

2. Scale, northpoint, and dates of submittal and revisions.

3. A legal description.

4. Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within fifty (50) feet of the site.

5. Evidence of agreement of owner of land to be included in the rezoning.

6. For Zoning Map Amendments, the following information shall also be provided:

    a. Proposed lot lines and lot dimensions.

    b. Dimensions, centerlines, and right-of-way widths of abutting streets and alleys.

    c. The general location of existing drainage courses and wetlands.

    d. All existing and proposed easements.

Section 30.03 -- AMENDMENT REVIEW PROCEDURES

After the completed petition and all required supporting materials have been received and fees paid, the petition shall be reviewed in accordance with the following procedures:

A. Planning Commission Review

If the Planning and Community Development Department determines that the application is complete, a public hearing shall be scheduled.

1. **Public Hearing Notice**

   The Planning Commission shall hold not less than one (1) public hearing, notice of which shall be given by one (1) publication in a newspaper of general circulation in the City, to be published not less than fifteen (15) days before the date of the hearing. Not less than fifteen (15) days notice of the time and place of the hearing shall be given to each electric, gas, pipeline and telephone public utility company, and to each railroad operating within the district or zone affected, that registers its name and mailing address with the City. In addition, the Planning Commission shall give notice of the proposed rezoning to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all single and 2-family dwellings within three hundred (300) feet. The notice shall be given not less than fifteen (15) days before the hearing, and shall state the time, place, date, and purpose of the hearing.

2. **Planning Commission Action**

   Following the hearing on the proposed amendment, the Planning Commission shall make its recommendation(s), which it shall transmit to the City Council with the comments made at the public hearing.

B. City Council Review

City Council review shall follow Planning Commission review and recommendation.

1. Public Hearing

The City Council may hold additional hearings if the Council considers it necessary, following the hearing and notice requirements of Michigan Public Act 110 of 2006, as amended. If additional City Council public hearings are deemed necessary, notice of which shall be given by the City Clerk in one (1) publication in a newspaper of general circulation in the City, to be published not less than fifteen (15) days before the date of the hearing. Not less than fifteen (15) days notice of the time and place of the hearing shall be given to each electric, gas, pipeline and telephone public utility company, and to each railroad operating within the district or zone affected, that registers its name and mailing address with the City. In addition, the City Council, via the City Clerk's office, shall give notice of the proposed rezoning to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all single and 2-family dwellings within three hundred (300) feet. The notice shall be given not less than fifteen (15) days before the hearing, and shall state the time, place, date, and purpose of the hearing.

2. City Council Action

Unless a protest petition has been filed on the proposed amendment, the City Council may, by majority vote of its membership, adopt the proposed amendment, reject the proposed amendment, or refer the proposed amendment back to the Planning Commission for further review and recommendation within a specified time period. Thereafter, the City Council may either adopt the amendment with or without the recommended revisions, or reject it. If a protest petition has been filed on the proposed amendment, the City Council may by a two-thirds vote of its membership adopt the proposed amendment, reject the proposed amendment, or refer the proposed amendment back to the Planning Commission for further review and recommendation within a specified time period. A protest petition shall be presented to the City Council before final legislative action on the amendment and signed by one (1) of the following:

a. The owners of at least twenty percent (20%) of the area of land included in the proposed change;

b. The owners of at least twenty percent (20%) of the area of the 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.

C. Text Amendment Review Considerations

The Planning Commission and City Council shall at minimum, consider the following before taking action on any proposed text amendment:

1. Is the proposed amendment consistent with the City's Master Plan?

2. Have conditions changed since the Zoning Ordinance was adopted that justifies the amendment?

3. Was there a mistake in the Zoning Ordinance that justifies the amendment?

4. Will the amendment correct an inequity created by the Zoning Ordinance?

5. Will the amendment merely grant special privileges?

6. Will the amendment result in unlawful exclusionary zoning?

D. Zoning Map Amendment Review Considerations

The Planning Commission and City Council shall at minimum, consider the following before taking action on any proposed zoning map amendment:

1. Is the proposed amendment consistent with the City's Master Plan?

2. Will the proposed amendment be in accordance with the intent and purpose of the Zoning Ordinance?

3. Have conditions changed since the Zoning Ordinance was adopted that justifies the amendment?

4. Will the amendment merely grant special privileges?

5. Will the amendment result in unlawful exclusionary zoning?

6. Will the amendment set an inappropriate precedent?

7. Is the proposed zoning consistent with the zoning classification of surrounding land?

8. Is the proposed zoning consistent with the future land use designation of the surrounding land in the City Master Plan?

9. Could all requirements in the proposed zoning classification be complied with on the subject parcel?

10. Is the proposed zoning consistent with the trends in land development in the general vicinity of the property in question?

E. Conditional Zoning Map Amendment Considerations

1. Intent

It is recognized that there are certain instances when it would be in the best interests of the City, as well as advantageous to property owners seeking a change in zoning classification, if certain conditions are proposed by property owners as part of a request for a zoning map amendment, otherwise referred to as rezoning. It is the intent of this Section to provide a process consistent with the provisions of the City and Village Zoning Act by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

2. Application and Offer of Conditions.

a. All owners of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.

b. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.

c. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.

d. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.

e. Any use or development proposed as part of an offer of conditions that would require a conditional land use permit under the terms of this Ordinance may only be commenced if a conditional land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.

f. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is first granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.

g. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.

h. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the City Council provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

3. Planning Commission Review

The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 30.03 of this Ordinance, may recommend approval, approval with conditions offered in writing by the applicant or denial of the rezoning**.**

4. City Council Review

After receipt of the Planning Commission's recommendation, the City Council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The City Council's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Section 30.03 of this Ordinance.

Should the applicant offer additional conditions after the Planning Commission recommendation has been made that substantially impact the zoning request, City Council shall refer the matter back to the Planning Commission for further review and recommendation.

5. Approval.

a. If the City Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated into the ordinance adopted by the City Council to accomplish the requested rezoning.

b. The Statement of Conditions shall:

i. Be in a form recordable with the Register of Deeds of the County in which the land is located or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the City Council.

ii. Contain a legal description of the land to which it pertains.

iii. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.

iv. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

v. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the City with the Register of Deeds of the County in which the land referenced in the Statement of Conditions is located.

vi. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

c. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with

a Statement of Conditions. The City Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.

d. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the City with the Register of Deeds of the County in which the land is located. The City Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the City or to any subsequent owner of the land.

e. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

6. Compliance with Conditions

a. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

b. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

7. Time Period for Establishing Development or Use

Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the City Council if:

(1) it is demonstrated to the City Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and

(2) the City Council finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

8. Reversion of Zoning

If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection 7 above, then the land shall revert to its former zoning classification as set forth in MCL 125.584g. The reversion process shall be initiated by the City Council requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

9. Subsequent Rezoning of Land

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection 8 above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. The City Clerk shall record with the Register of Deeds of the County in which the land is located a notice that the Statement of Conditions is no longer in effect.

10. Amendment of Conditions

a. During the time period for commencement of an approved development or use specified pursuant to Subsection 7 above or during any extension thereof granted by the City Council, the City shall not add to or alter the conditions in the Statement of Conditions.

b. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

11. City Right to Rezone

Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act, P.A 110 of 2006 as amended.

12. Failure to Offer Conditions

The City shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

F. Notice of Record of Amendment Adoption

Following adoption of an amendment by the City Council, one notice of adoption shall be filed with the City Clerk and one notice shall be published in newspaper of general circulation in the City within fifteen (15) days after adoption, in accordance with Michigan Public Act 110 of 2006, as amended. A record of all amendments shall be maintained by the City Clerk. A master Zoning Map, including all map amendments by ordinance date, shall be maintained by the City.

Section 30.04 -- FILING FEES

All applications shall be accompanied by a filing fee which shall be established by the City Council, found in Chapter 21 of the City of Midland Code of Ordinances. Upon notification of deficient payment of fees, administrative officials charged with enforcement of the Ordinance shall suspend further review of the application.

A schedule of the current filing fees and deposit requirements shall be made available in the office of the Planning and Community Development Department.

ARTICLE 31.00

ADMINISTRATIVE ORGANIZATION

Section 31.01 – OVERVIEW

The City Council or its duly authorized representatives as specified in this Article are hereby charged with the duty of enforcing the provisions of this Ordinance. Accordingly, the administration of this Ordinance is hereby vested in the following City entities:

A. City Council
B. City Planning Commission
C. Zoning Board of Appeals
D. Zoning Enforcement Officials, Including the Building Official and other Enforcement Officials

The purpose of this part of the Zoning Ordinance is to set forth the responsibilities and scope of authority of these entities.

Section 31.02 – CITY COUNCIL

The City Council shall have the following responsibilities and authority pursuant to this Ordinance.

A. Adoption of Zoning Ordinance and Amendments

In accordance with the intent and purposes of this Ordinance, and pursuant to the authority conferred by the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended, the City Council shall have the authority to adopt this Ordinance, as well as amendments previously considered by the Planning Council at a hearing or as decreed by a court of competent jurisdiction.

B. Setting of Fees

The City Council shall have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance. In the absence of specific action taken by the City Council to set a fee for a specific permit or application, the appropriate City administrative official shall assess the fee based on the estimated costs of processing and reviewing the permit or application.

C. Approval of Planning Commission Members

In accordance with the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, members of the Planning Commission shall be appointed by the Mayor with the approval of the City Council.

D. Conditional Land Use

City Council review and approval is required for all Conditional Land Uses, in accordance with Section 28.02.

Section 31.03 – CITY PLANNING COMMISSION

The City Planning Commission shall have the following responsibilities and authority pursuant to this Ordinance.

A. Creation

The City Planning Commission is created pursuant to the Michigan Zoning Enabling Act, Michigan Public Act110 of 2006, as amended, the Michigan Planning Enabling Act, Michigan Public Act 33 of 2008, and Article 6, sub-section 6.7, of the City Charter. In accordance with Public Act 33 of 2008, as amended, the Planning Commission shall have all the powers and duties provided for zoning boards created pursuant to Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended.

B. Membership and Operation

Members of the Planning Commission shall be appointed by the Mayor for a term of three (3) years with the approval of the City Council. The qualifications of members, the term of each member, filling of vacancies, removal of members, compensation of members, and operation of the Planning Commission shall be in accordance with the Michigan Planning Enabling Act, Michigan Public Act 33 of 2008, as amended, and Chapter 5, sub-section 5.12, of the City Charter.

In accordance with the Michigan Planning Enabling Act, the Planning Commission shall hold at least one (1) regular meeting a month. The Planning Commission shall adopt rules for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.

C. Jurisdiction

The Planning Commission shall discharge the following duties pursuant to this Ordinance:

1. **Formulation of Zoning Ordinance and Amendments**
   The Planning Commission shall be responsible for formulation of the Zoning Ordinance, review of amendments to the Zoning Ordinance, holding hearings on a proposed Zoning Ordinance or amendments, and reporting its findings and recommendations concerning the Zoning Ordinance or amendments to the City Council.

2. **Site Plan Approval**
   Planning Commission review and approval is required for all site plans, pursuant to Article 27.04.

3. **Conditional Land Use Approval**
   Planning Commission review and recommendation to the City Council shall be required for all Conditional Land Uses, in accordance with Section 28.02

4. **Formulation of a Basic Plan**
   The Planning Commission shall be responsible for formulation and adoption or recommendation of a basic plan (i.e., the City of Midland Master Plan) as a guide for the development of the City, in accordance with the Michigan Planning Enabling Act, Michigan Public Act 33 of 2008, as amended.

5. **Review of Matters Referred by the City Council**
   The Planning Commission shall be responsible for review of plats or other matters relating to land development referred to it by the City Council. The Planning Commission shall recommend appropriate regulations and action on such matters.

Section 31.04 -- ZONING BOARD OF APPEALS

The City Zoning Board of Appeals (hereinafter referred to as "ZBA") is created pursuant to the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended.

A. Organization and Procedure

The ZBA shall consist of five (5) members and two (2) alternates who shall be appointed in accordance with Michigan Public Act 110 of 2006, as amended.

1. The qualifications of members, the term of each member, filling of vacancies, compensation of members, and operation of the ZBA shall be in accordance with Michigan Public Act 110 of 2006, as amended. The ZBA shall not conduct business unless a majority of the members of the Board are present.

2. Meetings of the ZBA shall be held in accordance with an adopted schedule, or at the call of the Chairman, or at such other times as the ZBA may specify in its rules and procedures. The ZBA shall state the grounds of each determination, and shall maintain a record of its proceedings, which shall be filed in the office of the City Clerk.

3. Hearings and meetings of the ZBA shall be public.

4. The ZBA shall not conduct business unless a majority of the ZBA is present. The concurring vote of a majority of the members of the ZBA, i.e. three (3) affirmative votes, shall be necessary to reverse an order, requirement, permit, decision, or refusal made by an official, board, or commission.

5. In the event alternate members to this Board are appointed by the City Council, the alternate members may be called on a rotating basis by the chairman to sit as regular members of the ZBA in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose or reaching a decision in a case in which the regular member has abstained for reasons of conflict of interest. The alternate member, having been appointed, shall serve in the case until a final decision has been made. The alternate members shall have the same voting rights as a regular member of the ZBA.

B. Jurisdiction

The ZBA shall have the authority outlined in Article 29.00.

Section 31.05 -- ZONING ENFORCEMENT OFFICER, BUILDING OFFICIAL AND OTHER ENFORCEMENT OFFICIALS

A. Overview

As specified throughout this Ordinance, certain actions necessary for the implementation of this Ordinance shall be administered by the Zoning Enforcement Officer. In carrying out their designated duties, all such enforcement officers shall administer the Ordinance precisely as it is written and shall not make changes or vary the terms of the Ordinance.

B. Responsibilities of the Zoning Enforcement Officer and Representatives

In addition to specific responsibilities outlined elsewhere in this Ordinance, and in addition to specific responsibilities related to enforcement and administration of the Zoning Ordinance, the

Zoning Enforcement Officer or his/her duly authorized representatives shall have the following responsibilities:

1. Provide citizens and public officials with information relative to this Ordinance and related matters.

2. Assist applicants in determining and completing appropriate forms and procedures related to site plan review, rezoning, and other zoning matters.

3. Review and investigate permit applications to determine compliance with the provisions of the Zoning Ordinance.

4. Perform inspections of buildings, structures, and premises to insure proposed land use changes or improvements are and will remain in compliance with this Ordinance.

5. Investigate alleged violations of this Ordinance and enforce appropriate corrective measures when required, including issuance of violation notices, issuance of orders to stop work, and revoking of permits.

6. Perform other related duties required to administer this Ordinance.

C. Responsibilities of the Building Official and Representatives

In addition to specific responsibilities outlined elsewhere in this Ordinance, and in addition to specific responsibilities related to enforcement and administration of the adopted Building Code, the Building Official or his/her duly authorized representatives shall have the following responsibilities:

1. Issue building or other appropriate permits when all provisions of this Ordinance and other applicable ordinances have been complied with.

2. Issue Certificates of Occupancy in accordance with Building Department procedures.

3. Perform inspections of buildings, structures, and premises to insure proposed land use changes or improvements are and will remain in compliance with this Ordinance.

4. Perform other related duties required to administer this Ordinance.

Section 31.06 – Zoning Compliance Permit

A. Intent

The intent of this Section is to establish a review and permit process for administration of this Ordinance. A zoning compliance permit shall be required for construction on vacant land, a change of land use or a change in use of an existing building or structure. Zoning compliance permits shall be applied for and issued concurrently with building permits.

B. Zoning Compliance Permit

A zoning compliance permit shall be required prior to any construction on vacant or improved land, or any construction or alterations whether requiring a building permit or not. Zoning compliance permits shall be applied for and issued concurrently with building permits. In addition, any change of land use shall also require a zoning compliance permit to ensure that all applicable zoning ordinance requirements are adhered to and compliance with the Zoning Ordinance is achieved.

1. **Permit Required**

A zoning compliance permit is required when a change in land use is proposed and a building permit is required by the adopted Building Code.

2. **Application Requirements**
   No permit shall be issued for construction, alteration, or remodeling of any building or structure where a change in land use is proposed until an application has been submitted, showing that the proposed uses, structures and buildings are in conformance with the provisions of this Ordinance.

   Applications for permits required by this Section shall be filed with the Building Official.

3. **Expiration of Permits**
   If construction has not commenced within six (6) months of the issue of a zoning compliance permit, the permit becomes null and void. Upon written request from the applicant prior to expiration of the previous approval, a six (6) month extension may be granted by the Building Official, if it finds that the approved zoning compliance permit application adequately represents current conditions on and surrounding the site and conforms to current zoning ordinance standards. The written request for extension shall be received by the Building Official or post marked prior to the expiration date or a new application for a zoning compliance permit will be required.

Section 31.07 -- Violations and Penalties

A. Violation Defined

Any person, firm, corporation, or agent, or any employee, contractor, or subcontractor of same, who fails to comply with any of the provisions of this Ordinance or any of the regulations adopted in pursuance thereof, or who impedes or interferes with the enforcement of this Ordinance by the Zoning Enforcement Officer or other enforcement official, shall be deemed in violation of this Ordinance.

B. Penalty

Any person, firm, co-partnership, or corporation violating or neglecting or refusing to comply with any of the provisions of this Ordinance shall be responsible for any penalties, as set forth in Chapter 34, Municipal Civil Infractions, in the Code of Ordinances of the City of Midland.

Furthermore, the owner or tenant of any building, structure, premise, or part thereof, and any architect, engineer, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains any violation of the Ordinance may each be found guilty of a separate offense and may be subject to the penalties provided herein. The cost of prosecution shall also be assessed against the violator.

The imposition of any sentence shall not exempt the offense from compliance with the requirement of this Ordinance.

C. Rights and Remedies Preserved

Any failure or omission to enforce the provisions of this Ordinance, and failure or omission to prosecute any violations of this Ordinance, shall not constitute a waiver of any rights and remedies provided by this Ordinance or by law, and shall not constitute a waiver of nor prevent any further prosecution of violations of this Ordinance.

ARTICLE 32.00

SEVERABILITY, REPEAL, EFFECTIVE DATE, ADOPTION

Section 32.01 – SEVERABILITY

This Ordinance and the various parts, sentences, paragraphs, sections and clauses it contains are hereby declared to be severable. Should any part, sentence, paragraph, section or clause be declared unconstitutional or invalid by any court for any reason, such judgment shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

Furthermore, should the application of any provision of this Ordinance to a particular property, building, or structure be adjudged invalid by any court, such judgment shall not affect the application of said provision to any other property, building, or structure in the City, unless otherwise stated in the judgment.

Section 2. That the Zoning Map of Ordinance No. 1585, dated October 25, 2004, of the City of Midland is hereby adopted.

Section 3. That Ordinance 727 and all its subsequent amendments are hereby repealed.

Section 4. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 5. This Ordinance shall take effect January 1, 2005.

YEAS:
NAYS:
ABSENT:

I, Selina Tisdale, City Clerk, City of Midland, Counties of Bay and Midland, State of Michigan, do hereby certify that the foregoing is a true and correct copy of a resolution adopted by a yea vote of all the Councilmen present at a regular meeting of the City Council held Monday, October 25, 2004.

_____

Selina Tisdale, City Clerk

City of Midland

ORDINANCE NO. 1585

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