

AGENDA

REGULAR MEETING OF THE MIDLAND CITY PLANNING COMMISSION, TO TAKE PLACE ON TUESDAY, JANUARY 26, 2016, 7:00 P.M., COUNCIL CHAMBERS, CITY HALL, MIDLAND, MICHIGAN

1. Call to Order

2. Pledge of Allegiance to the Flag

3. Roll Call

4. Approval of the Minutes

Regular Meeting – January 12, 2016

5. Public Hearings

a. None.

Public Hearing Process

1. Staff presentation and overview of petition
2. Petitioner presentation
3. Public comments in support of the petition
4. Public comments in opposition to the petition
5. Opportunity for petitioner rebuttal and final comments
6. Closing of public hearing
7. Deliberation and possible decision by Planning Commission

6. Old Business

None

7. Public Comments (unrelated to items on the agenda)

8. New Business

- a. [Annual Zoning Ordinance Text Amendments](#)
- b. Capital Improvement Plan – (draft document to be provided separately)

9. Communications

10. Report of the Chairperson

11. Report of the Planning Director

12. Items for Next Agenda – February 9, 2016

- a. Site Plan No. 344 – initiated by Fisher Contracting Co. for a 16,400 square foot storage and shop addition, located at 3401 Contractor Drive.

13. Adjournment

**MINUTES OF THE MEETING OF THE
MIDLAND CITY PLANNING COMMISSION
WHICH TOOK PLACE ON
TUESDAY, JANUARY 12, 2016, 7:00 P.M.,
COUNCIL CHAMBERS, CITY HALL, MIDLAND, MICHIGAN**

1. The meeting was called to order at 7:00 p.m. by Chairman McLaughlin
2. The Pledge of Allegiance was recited in unison by the members of the Commission and the other individuals present.

3. **Roll Call**

PRESENT: Bain, Heying, Mayville, McLaughlin, Pnacek, Senesac, Stewart and Tanzini

ABSENT: Hanna

OTHERS PRESENT: Brad Kaye, Assistant City Manager for Development Services; Grant Murschel, Community Development Planner; and twelve (12) others.

4. **Approval of Minutes**

Moved by Heying and seconded by Mayville to approve the minutes of the regular meeting of December 8, 2015 as written. Motion passed unanimously.

5. **Public Hearing**

- a. Conditional Use Permit #56 – initiated by Midland County Habitat for Humanity to permit a single family residential dwelling in an RB Multiple-Family Residential zoning district on the property located at 309 Sam Street.

Murschel gave the staff presentation and began by explaining the location of the subject site within the city. He indicated that the site is currently zoned RB Multiple-Family Residential and that a single-family home can only be developed through approval of a conditional use permit. He indicated that the proposal meets all setback requirements and all other zoning district regulations. Public utilities of sanitary sewer, storm sewer, and water all exist within the Sam Street right-of-way. The proposal will require tapping of these utilities. Staff have not identified any further issues with the site and are supportive of the proposal, as indicated in the staff report with the recommended contingencies.

Heying questioned how close the house to the south is located to the property line. Murschel indicated that he did not know the exact measure but that it is very close, within ten feet. The proposed house is shifted towards the north side of the subject property, as close as permitted under the zoning regulations in order to maximize the distance between the existing house to the south and the new construction.

Bain asked for clarification on the ownership of the property. Murschel clarified that Habitat for Humanity owns the subject property as it was recently purchased from Midland County after tax foreclosure.

Jennifer Chappel, Executive Director of Midland County Habitat for Humanity, spoke as the applicant. She confirmed that her organizations holds the title to the subject property. She mentioned that the confusion might be from other conversations that she has been a part of with owners of surrounding parcels, including Ms. Serrine who submitted the letter of support. Chappel indicated that her organization has a purchase agreement currently for the property to the immediate north, 311 Sam St.

There were no comments in support or opposition of the proposal from the public in attendance. The public hearing was closed.

Chairman McLaughlin asked the commission if anyone was not in favor of waiving the procedural requirements and formulating a recommendation on this proposal this evening. Hearing none, he entertained a motion to waive the procedural requirements.

A motion was made by Senesac to waive the procedural requirements to delay a decision on the petition until the next meeting. The motion was seconded by Mayville. It was approved unanimously.

It was moved by Senesac and supported by Bain to recommend approval of Conditional Use Permit #56 to permit a single family residential dwelling in an RB Multiple-Family Residential zoning district on the property located at 309 Sam Street, with the following contingencies:

1. One (1) single-family dwelling shall be permitted on the property.
2. One (1) driveway shall be permitted to Sam Street.
3. Approval is granted to the proposed single family dwelling only. Any additional uses of the property shall be reviewed and approved in accordance with the standards of the City of Midland Zoning Ordinance, including the requirements for site plan approval under Article 27.

YEAS: Bain, Heying, Mayville, McLaughlin, Pnacek, Senesac, Stewart and Tanzini
NAYS: None
ABSENT: Hanna

6. Old Business

None

7. Public Comments (unrelated to items on the agenda)

None

8. New Business

- a. North Saginaw Road – Public input session on Future Land Use Plan Designation Updates

Kaye gave the staff presentation of the area being reviewed for changes or additions to the Future Land Use map of the City's Master Plan. The focus area is on the western side of the city extending to the Midland Urban Growth Area (MUGA) boundary. The intent of this public input session is to solicit input from the public and possibly property owners within the focus area.

Thomas McCann, owner of many properties in the focus area including 5828 N. Saginaw Road, believes that property along N. Saginaw road should be developed as commercial as future residents in the area will need access to shops or services in close proximity.

Michael Dennett, owner of 6715 Herbert Road, indicated that he has made a large amount of investments in his home. He is concerned about how future commercial development would occur and whether or not it would negatively impact the value of his property.

Valerie McCloy, owner of 7022 N. Saginaw Road, indicated that the commercial designation of her property and the properties to the east concerns her about future development. She does not know how it might impact her property value in the long term.

Dana Murray, owner of 5706 & 5712 N. Saginaw Road, indicated that there appears to be some inconsistency with the future land use designations. She explained the commercial nature of the

current Homer Township designations and how it differs from the plans of the City. She requested that her property be included with the abutting commercial designation to the east.

Josh Vinson, owner of 767 Lambert Road, indicated that he would like to remain in the county and not in the city since he enjoys the hunting opportunities he has on his property.

Bill Tuttle, of 1420 Joy Bell Lane, West Branch, wanted to know the difference between medium and high density residential. Kaye explained that the densities are determined mostly on units per acre. Low density residential is intended to provide for single-family residential uses.

McLaughlin explained that the intent of this input session is to understand what the property owners in the area want as it pertains to future land development. The future development is determined by what future land use designation is given to the parcel. The future land use map, which is part of the Master Plan, is used as a guide for consideration of future new zoning or zoning amendment requests.

Kaye further explained how the MUGA area is a policy boundary area. Annexation agreements are in place which determine how annexation will take place to facilitate land transferring from the surrounding townships to the city within the area. The city does not force annexation as it is a choice of the property owner. Per Senesac's request, Kaye explained further that the intent of the future land use map is to determine what the area should head towards, land use wise, in the next ten to twenty years.

Kaye explained the process going forward regarding the formal Master Plan amendment process, which includes additional public input opportunities and public notifications. The Planning Commission will hold future public hearings on the matter, and the City Council will be consulted as part of the process.

Senesac explained that he liked the format of this input opportunity as it provided an early opportunity for area residents to give input on the matter before the formal process begins.

9. Communications

Planning and zoning magazines were distributed to the members of the commission.

10. Report of the Chairperson

None

11. Report of the Planning Director

Kaye commented that the Creative 360 rezoning request was approved by City Council during their meeting last evening. This action was in line with the recommendation of approval by the Planning Commission.

12. Items for Next Agenda – January 26, 2016

- a. Site Plan No. 343 – initiated by LSG Engineers & Surveyors on behalf of The Kroger Co. of Michigan for site plan review and approval for a 124,942 square foot Kroger Marketplace and fuel station, located at 315 Joe Mann Boulevard. **POSTPONED**

This item has been postponed due to concerns about traffic impacts in the subject area. The applicant has submitted a traffic impact study which is currently under review by the City's traffic consultant. Staff is waiting until the results of the consultant's review are known and can be considered with the applicant.

b. Annual Zoning Ordinance Text Amendments

13. Adjourn

Motion by Heying and seconded by Senesac to adjourn at 8:04 p.m. Motion passed unanimously.

Respectfully submitted,

A handwritten signature in cursive script that reads "C. Bradley Kaye".

C. Bradley Kaye, AICP, CFM
Assistant City Manager for Development Services

MINUTES ARE NOT FINAL UNTIL APPROVED BY THE PLANNING COMMISSION

Memo



To: Planning Commission Members
From: C. Bradley Kaye, AICP, CFM
Assistant City Manager for Development Services
Date: January 20, 2016
Re: Annual Zoning Ordinance Updates 2015/16

BACKGROUND:

Each year a list of zoning amendments is compiled to improve the zoning text and reflect current needs, identified problems and recommendations from the Zoning Board of Appeals based on cases heard. Draft text amendments were first introduced in October of 2015. Based on the discussions from that meeting and subsequent staff research, updated text amendments are now provided for consideration.

Text amendments are presented within the content of the existing zoning ordinance language. Text proposed to be deleted is noted in ~~strikethrough~~, while text proposed to be added is noted in **bold underline**.

SUMMARY OF PROPOSED TEXT AMENDMENTS:

The following summary is intended to explain changes to the proposed text amendments since this was last considered. Text amendments presented previously that were not questioned remain included in the attached documents but are not discussed in this summary report.

Article 2 – Definitions

Accessory Building and Accessory Structure – considerable overlap in the definitions previously existed. Clarification intended to make the distinctions between an accessory building and an accessory structure are proposed.

Animal, Exotic – Staff was asked to investigate whether a shorter, more concise definition could be utilized. Discussions with the City Attorney indicate that the detail included in this definition is important for application and enforcement purposes. He did recommend, however, that greater distinction be added to differentiate domestic and exotic animals. Changes to each of these definitions, as generally recommended by the City Attorney, are therefore provided for consideration.

Animal, Farm – Possible conflict with the reference to swine and the city's ordinance allowing for miniature pigs was raised during our last discussion. Direct reference to that ordinance and exemption from the definition is now proposed to address this conflict.

Restaurant, Fast Food – To address and permit coffee shops in the table of permitted uses under the standard restaurant provisions, the definition of fast food restaurant needed to be expanded to include reference to both food and beverages. The proposed change is now presented for review.

Article 3 – General Provisions

Swimming pools – Swimming pools were found to be generally and appropriately regulated through the accessory structure standards of the current ordinance. It was determined, however, that the definition of accessory building included reference to pump houses. After review, it would be more appropriate to regulate these as accessory structures. The single impact of this change would be to remove pump houses from the restrictions of Section 3.03.B.5, wherein only one accessory building could be permitted.

Article 5 – Parking and Loading

Section 5.01.C.9.d Circle District Standards (page 5-8) – The current language provides for the provision of parking within 500 feet of the subject site in the Circle District. Reservations about this distance were raised and staff was asked to investigate the history of this standard. As explained at our last meeting, this standard has existed since the ordinance was adopted in 2004. A review of the previous ordinance, adopted in 1969, shows that a similar standard existed but required measurement from the nearest part of the building instead of the site. A change restoring the previous ordinance intent is included. Discussion of whether or not to include this standard at all is encouraged.

Article 27 – Site Plan Review

Section 27.02.B.2 (page 27-2) – Consideration of an alternative standard utilizing percentage of building expansion was requested. Upon review, staff was unable to develop a standard that was reasonable and simple to apply.

Also discussed was the concern about multiple building additions that could be approved administratively without ever requiring the more formal and public site plan review process. Proposed are text revisions that establish triggers for such review whenever a smaller building expands beyond 7,500 sq ft and whenever multiple additions, collectively, exceed 15,000 sq ft since the time of the last full site plan review. These revisions are intended to make certain that expanding facilities are reviewed through the more extensive site plan review process and subject to the current standards of public notice and input at appropriate stages of their development. At the same time, the 15,000 sq ft standard has been added so as to give recognition that smaller additions typically have much more limited impacts and should still be afforded the more timely administrative review process.

NEXT STEPS:

The text amendments presented at this time require Planning Commission review and discussion. Once the Planning Commission is generally satisfied with the proposed text, the text amendments will be forwarded to the City Attorney for his review and approval. A public hearing will then be scheduled and public notice of that meeting will be provided. Only following the public meeting can a recommendation be made to City Council.

- 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, **pump houses, and dog houses.**

ACCESSORY STRUCTURE, ATTACHED: An accessory building that is physically joined to the principal structure 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, **HVAC units, generators, garages, storage sheds, gazebos, greenhouses, pump houses, 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

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 **(unless confined to a cage or other method of containment throughout their lifetime)**; 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 crocodylian (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. **An exotic animal excludes domestic animals as defined by this ordinance. Exotic animals may not be kept for domestic purposes in any zoning district.**

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 (**except as provided for** per City ordinance #1519 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.

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

FORTUNE TELLING ESTABLISHMENTS: Any place where people engage in, practice or profess to practice, the business or art of astrology, phrenology, life reading, fortune-telling, cartomancy, clairvoyance, crystal ball gazing, hypnotism (other than in connection with the practice of medicine), mediumship, mesmerism, oriental mysteries, palmistry, reading of tarot or similar cards, or of other similar occult powers for any form of compensation.

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: An institution other than a hospital, **or** hotel **or nursing home**, 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.

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 2-37).

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 2-37).

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 2-37):

- 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 2-21).

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.

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 **of 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.

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 **handicapped 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 **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.

- 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 2-36 and 2-37).

- 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.

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 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 Structures

Unless otherwise specified in this Section, accessory structures which are attached to the principal 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.

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 Structures 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 **structure 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, ~~NC, CC, RC, C, D~~, **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:

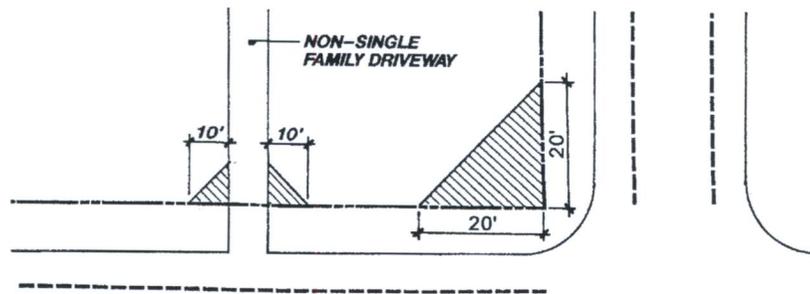
- a. For allowed residential uses, detached accessory structures shall be located at least ten (10) feet from any other structure.
- b. Accessory structures on double frontage lots shall observe front yard setback requirements on both street frontages.

section, 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.

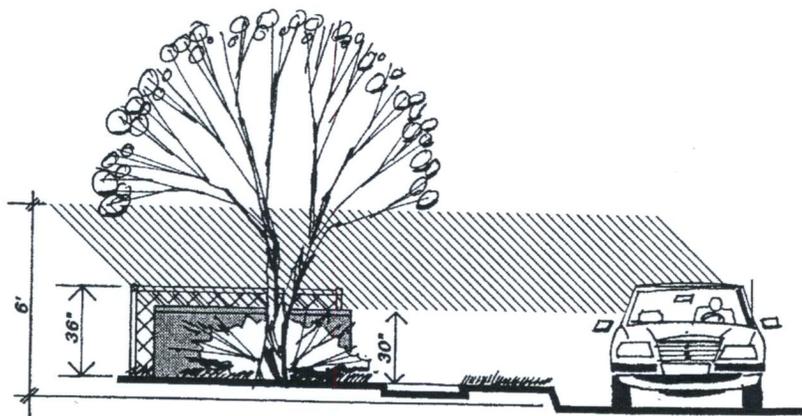
6. Unobstructed Sight Distance

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.



PLAN



MAXIMUM HEIGHT 36" FOR CHAIN LINK FENCE

MAXIMUM HEIGHT 30" FOR WALLS OR SOLID FENCES, SHRUBS, ETC.

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 different 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 **on** a corner **lot**, one-way drives may be permitted **per parcel provided the driveway approaches comply with the commercial driveway spacing standards in subsection D, below.**

D. Commercial Driveway Spacing Standards for Separate Parcels

1. **Spacing 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.

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.

~~Proposals for construction of essential services shall be subject to site plan review and conditional land use review, if applicable (See Section 27.02).~~ 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

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 **Section 3a, City and Village Zoning Act, Public Act 207 of 1921, 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.

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 **may** have different parking standards than otherwise required in this Article. Please refer to subsections 5.01.C.98 and 5.01.C.109.

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.

7. **Parking Lot Deferment – Office, Commercial, Industrial A 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 A 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. Fractional Spaces

When calculations for determining the required number of parking spaces results in a fractional space, any fraction of less than one-half ($\frac{1}{2}$) may be disregarded, while a fraction of one-half ($\frac{1}{2}$) or more shall be counted as one space.

b. Employee Parking

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

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 **subject site per Section 5.01.B.2.e 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 <i>usable</i> floor area

1. The Zoning Board of Appeals may permit the establishment of off-street parking lots in Residence "B" and Office-Service Districts to serve business, office or industrial uses in an abutting business, office, or industrial zoning district, or on non-contiguous property, provided at least twenty-five (25) percent of the frontage of the lot on which the parking is proposed to be placed is directly across a street from the use intended to be served. The Board may impose reasonable conditions to insure the protection of abutting properties.
2. The Zoning Board of Appeals may permit the establishment of off-street parking lots in any residential district to serve permitted non-residential uses in said districts on non-contiguous property, provided at least twenty-five (25) percent of the frontage of the lot on which the parking is proposed to be placed is directly across a street from the use intended to be served. In addition to meeting the requirements of ARTICLE XXX for the development of said parking area, the Zoning Board of Appeals shall impose reasonable restrictions to insure the protection of surrounding residential properties. (Ord. No. 1004, 8-1-81)

(d) Location of parking spaces in non-residence districts.

The location of required off-street parking facilities in non-residence districts for other than one-, two-, or multi-family dwellings shall be within five hundred (500) feet of the building they are intended to serve, measured from the nearest point of the building, provided nothing contained herein shall prohibit an industry which employs five hundred (500) or more employees from providing off-street parking at a reasonable distance greater than five hundred (500) feet from the building in which said employees are employed.

(e) Parking space setback requirements.

1. In residence districts.
 - a. In one- and two-family dwellings, no parking shall be permitted within a front yard or side yard, except on an improved driveway. An improved driveway shall utilize no more than thirty (30) percent of the front yard, and shall be contiguous with an improved driveway leading to a garage or parking area located beyond the front yard setback area. (Ord. No. 1101, 3-17-86)
 - b. For multi-family and permitted non-residence uses in Residence "B" Districts, no parking space or maneuvering lane shall be located within twenty-five (25) feet of a front lot line or within ten (10) feet of a side street lot line, and no parking space or maneuvering lane shall be permitted within ten (10) feet of any interior lot line.
 - c. For permitted non-residence uses in any Residence "A" District, no parking space or maneuvering lane shall be permitted within any required front or side street yard, and no parking space or maneuvering lane shall be within ten (10) feet of any interior lot line.

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 directly upon 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.

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 fence and berm are built in combination with a fence or wall, the total height of the berm and fence or wall and berm shall not exceed six (6) feet from grade 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 for recreational uses and to permit fences up to 6' in the required street side yard.

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 -- WALLS AND FENCES IN RESIDENTIAL DISTRICTS

Fences in Residential Districts may be located in the required 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. Fences four (4') feet in height or greater, when located outside of the required front yard and in front of the principle structure, shall be at least 50% non opaque in nature and constructed so as not to create the appearance of a wall in the front of the house.

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 fences up to 6' in the required street side yard.**

B. Fence Design

1. Fences **and walls** in the **required** front yard **setback** may be obscuring if they do not exceed four (4') feet in height.
2. **Fences four (4') feet in height or greater are permitted in the front yard, outside of the required front yard, provided that the entire fence located within the front yard shall be at least 50% non-opaque in nature and constructed so as not to create the appearance of a wall in the front of the house.**
3. Temporary fences not associated with construction are prohibited.

Section 7.04 -- 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

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.

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 **Board of Appeals Enforcement Officer** shall interpret the exact location of zoning district boundaries **with the recommendation of the City Planning Commission**.
- 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

ARTICLE 14.00

RA-1, RA-2, RA-3, RA-4, ONE 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

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.

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 **six 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.

TABLE 21.1: TABLE OF PERMITTED USES

Use	Districts Where Permitted										Comments
	D	D-O	DNO	C	NC	CC	RC				
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											
Coffee shops	P	P	P	P	P	P	P	P	P	P	To be regulated in the same manner as a restaurant
Convenience stores	P	P	P	P	P	P	P	P	P	P	
Dressmaking/Tailoring	P	P	P	P	P	P	P	P	P	P	
Dry cleaning drop-off and pickup locations	P	P	P	P	P	P	P	P	P	P	No dry cleaning processing activity may occur on-site
Funeral homes	P										
Greeting card and gift stores	P	P	P	P	P	P	P	P	P	P	
Grocery Store	C	C	C	C	C	C	C	C	C	C	
Hardware, floor covering, paint, kitchen and bath store	P	P	P	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	P	P	P	
Music, art, and dance studios	P	P	P	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	P	P	P	
Pet shops	P	P	P	P	P	P	P	P	P	P	
Pharmacies and drug stores without drive up windows	P	P	P	P	P	P	P	P	P	P	
Pharmacies and drug stores with drive up windows	P	P	C	P	P	P	P	P	P	P	
Photographic studios	P	P	P	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	

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.

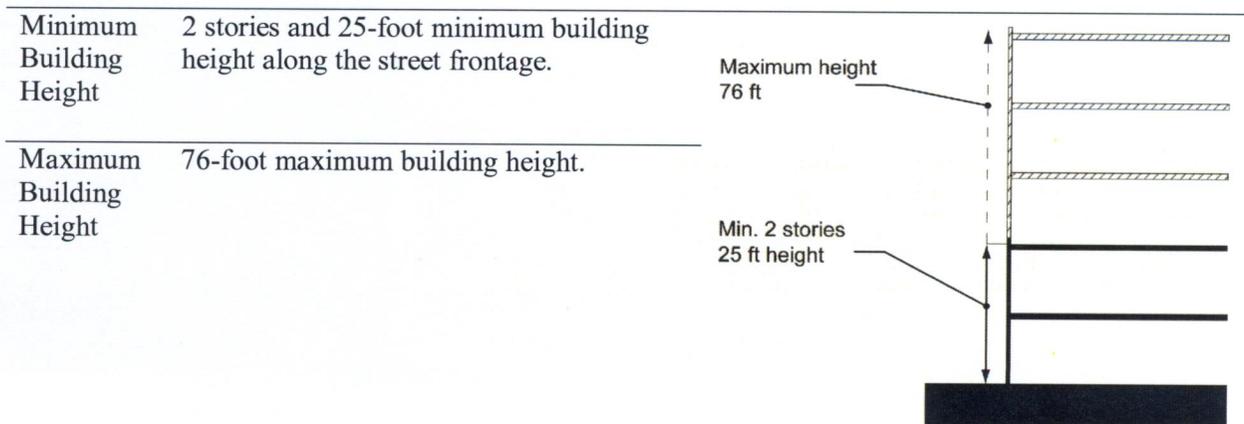
B. Required Conditions for Uses in the NC and C Districts

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:



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	

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, b	35 a, b	10 a, b, d	20 a, b	20 a, b, 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						
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
LC/MR	none	150	45 p	20 p, q	20 p, q, r	20 p, q, r	40 p, q, r	20 p, q

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. **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 ~~structure, building or~~ addition to an existing building or structure with less than seventy five hundred (7,500) square feet of gross floor area, so long as the addition does not increase the existing building's gross floor area above 7,500 square feet, in aggregate.
3. Construction of any addition to an existing building or structure to create not more than an additional fifteen thousand (15,000) 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.