

ARTICLE 9 USE REGULATIONS

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Sec. 5.9.01. Purpose and Intent.

- A. It is recognized by this Chapter that certain unique uses cannot easily be evaluated in the same manner as other uses because of their potential to adversely affect public health, safety and welfare; establish a public nuisance; conflict with the character of a neighborhood; impair

the social and economic well-being of neighboring properties; impair the general development of an area; or operate in a manner contrary to the purpose and intent of this Chapter.

- B. However, when properly regulated, these uses can make a positive contribution to the economic vitality of the city. Therefore, it is the purpose of this Article to impose reasonable regulations upon certain uses to provide an adequate approval process while moderating their potential adverse effects on surrounding and neighboring properties.

Sec. 5.9.02. Applicability.

A. Use Regulations and Approval Process of Table 5.9.02.

1. Director Review. All uses shall be in accordance with the provisions of Section 5.12.16.
2. Counter Reviews. All uses listed shall be in accordance with the provisions of Section 5.12.16.
3. Special Land Uses. All uses listed shall be in accordance with the provisions of Section 5.12.09. Unless otherwise stated within this Article, the Planning Commission shall have the authority to waive or alter the Use Regulations contained in this Article provided the standards of Section 5.12.12.E. are substantially met.

B. Summary of Use Regulations.

1. Table 5.9.02. shows the principal and accessory uses subject to regulations of this Article in addition to those listed in the Use Tables of the applicable Zone District, and the approval process for those uses within each Zone District.
2. Districts. The following Zone Districts and abbreviations shall apply for Table 5.9.02.
 - a. LDR - Low-Density Residential
 - b. MDR - Mixed-Density Residential
 - c. NOS - Neighborhood Office Service
 - d. CC - City Center
 - e. TCC - Transitional City Center
 - f. TBA - Traditional Business Area
 - g. TOD - Transit-Oriented Development
 - h. C - Commercial
 - i. OS - Open Space
 - j. IT - Industrial Transportation
 - k. — Not applicable

Table 5.9.02. Use Regulations and Approval Process				
Use	Section	Counter Review	Director Review	Special Land Use
Accessory dwelling units	5.9.03.	—	<u>LDR, MDR, CC,</u> TCC, TBA, TOD, C, NOS	<u>LDR, MDR,</u>
Adult day care center	5.9.04.	—	CC, TCC	MDR, TBA, TOD, C, NOS
Adult foster care	Adult foster care family home	5.9.04.	LDR, MDR, CC, TCC, TBA, TOD, C, NOS	—
	Adult foster care small group	5.9.04.	—	CC, TCC
	Adult foster care large group	5.9.04.	—	CC, TCC
Alcohol sales, consumption, and production	5.9.05.	—	Table 5.9.05.B.	Table 5.9.05.B.
Auditorium, theatre and banquet hall	5.9.07.	—	CC	TCC, TBA, TOD, C, NOS, IC
Bed and breakfast	5.9.08.	—	CC, TCC, TBA, TOD, C, NOS, MDR	LDR
Child care centers	5.9.09.	—	CC, TCC, TBA, C	LDR, MDR, TOD, NOS
Drive-in or drive-through facilities	5.9.10.	—	—	CC, TCC, TBA, TOD, C, PRD
				NOS: Banks, Credit Unions, and Financial Services
Electrical substations and private utilities	5.9.11.	—	CC, TCC, TBA, TOD, C, NOS, IT, LDR, MDR	—
Entertainment, live	5.9.12.	—	CC	TCC, TBA, TOD, C, OS
Helistops and heliports	5.9.13.	—	—	Helistops Only: CC, TCC. Both: IT.
Home occupations	5.9.14. Chapter 116	LDR, MDR, CC, TCC, TBA, TOD, C, NOS	—	—

Table 5.9.02. Use Regulations and Approval Process					
Use	Section	Counter Review	Director Review	Special Land Use	
Live-work units	5.9.16.	CC, TCC	TBA, TOD, C, NOS	LDR, MDR	
Manufactured housing community	5.9.17.	—	LDR, MDR	—	
Materials recovery, recycling, wrecking and salvage	5.9.18.	—	—	OS, IT, TCC	
Multiple-family dwellings	5.9.20.	MDR	CC, TCC, TBA, TOD, C, NOS, IC	LDR	
Mineral extraction	5.9.21.	—	IT	LDR, MDR, OS	
Outdoor activities (excluding vehicle sales)	5.9.22.	—	CC, TCC, TBA, TOD, C		
Outdoor recreational fields	5.9.23.	—	CC, OS	TCC, TBA, TOD, C, NOS, IC	
Outdoor seating areas	On or adjacent to public sidewalk	5.9.24.	—	CC, TCC, TBA, TOD, C	—
	Rooftop, side and rear yard	5.9.24.	—	—	CC, TCC, TBA, TOD, C
Overhead walkways or other connections	5.9.25.	—		CC, TCC, TOD	
Parking structures	5.9.26.	—	CC, TCC, TOD, IT	TBA, C	
Recycling collection stations	5.9.27.	—	CC, TCC, TBA, TOD, C	LDR, MDR, NOS	
Regulated uses	5.9.28.	—	IT		
Residential rehabilitation facility	5.9.29.	—	CC, TCC	LDR, MDR, TBA, TOD, C, NOS	
Rooming and boarding house	5.9.30.	—	CC, TCC	LDR, MDR, TBA, TOD, C, NOS	
Self-storage facilities	5.9.31.	—	IT	CC, TCC, C	
Single room occupancy	5.9.32.	—	CC, TCC, TBA, TOD, C, NOS	MDR	
Social or service clubs, motorcycle clubs	5.9.33.	—	CC	TCC, TBA, TOD, C, NOS	
Social service facilities	5.9.34.	—	CC, TCC, TBA, C	LDR, MDR, TOD, NOS	
Temporary structures and uses	5.9.35.	LDR, MDR, CC, TCC,	—	—	

Table 5.9.02. Use Regulations and Approval Process				
Use	Section	Counter Review	Director Review	Special Land Use
		TBA, TOD, C, NOS		
Transitional or emergency shelter	5.9.36.	—	CC, TCC	MDR, TBA, TOD, C, NOS
Variety of housing types	5.9.37.	—	—	—
Vehicle fuel stations (without vehicle repair)	5.9.38.	—	C, IT	CC, TCC, TBA
Vehicle sales or rental	New vehicles	5.9.39.	—	C
	Used vehicles	—	—	C
Vehicle service or repair	5.9.40.	—	C, IT	CC, TCC, TBA
Wireless communications facilities	Co-located antennas	5.9.41.	—	LDR, MDR, CC, TCC, TBA, TOD, C, NOS, IT, IC, OS
	Freestanding towers	—	—	C, IC, IT
Zoo	5.9.42.	See Section 5.7.05.F of Special District - Institutional Campus.		

Sec. 5.9.03. Accessory Dwelling Units (ADU).

The following ADU use regulations shall not be waived for altered by the Planning Commission.

- A. Not more than one (1) Accessory Dwelling Unit (ADU) may be included within a detached single-family dwelling (primary dwelling unit), or accessory structure, or separate from but located on the same lot as a detached single-family dwelling. ~~If separate from the primary dwelling, the Planning Commission shall take into consideration the relationship of a detached ADU to other surrounding residential structures as part of the Special Land Use review.~~
- B. Minimum Lot Area. An ADU may be developed on a lot meeting the minimum lot size for the applicable zone district. ~~minimum lot area of five thousand (5,000) square feet is required.~~
- C. Residential Density. The ADU shall be excluded from maximum residential density requirements.

D. Building Height.

- 1. The portion of a single family detached dwelling with an ADU, when newly added, shall not exceed the permissible main building height of the Zone District. The Planning Commission may increase the height of an accessory structure occupied by an ADU up to a maximum of twenty-five (25) feet.
- ~~D-2.~~ The maximum permitted height for a detached ADU is twenty-five (25) feet where the applicable zone district setback requirements for a primary structure are met.

Where zone district setback requirements for a primary structure cannot be satisfied, the detached ADU shall be no higher than (20) feet.

E. Maximum Floor Area. The maximum permitted floor area for an accessory structure that contains an ADU may be increased by one-hundred (100) percent solely for the construction of a second-floor unit.

~~E.F.~~ Front Yard Prohibited. If not part of the main building, the ADU shall not be in the front yard.

~~E.G.~~ Minimum/Maximum ADU Size. The ADU shall not exceed ~~twenty-five~~forty (25~~40~~) percent of the gross floor area of the primary dwelling unit, but in any case shall be at least four hundred (400) square feet and not larger than eight hundred fifty (850) square feet in gross floor area.

~~G. Bedroom Maximum. A maximum of two (2) bedrooms are permitted within an ADU. Occupancy shall be limited to no more than two (2) persons.~~

H. Owner Occupancy. One (1) of the dwelling units shall be owner-occupied. If the ADU is leased, it shall be registered with the City as required in Chapter 140 of the City Code.

I. Leasing or Rental. No ADU shall be leased or rented for less than thirty (30) days, and shall not be used as a short-term rental. ~~or to more than eleven (11) different parties in any calendar year.~~

J. Alterations or New Construction. Any alterations to existing buildings or structures or the construction of a new structure to accommodate the ADU shall be designed to maintain the architectural design, style, appearance and character of the main building as a detached single-family dwelling, including but not limited to entrances, roof pitch, siding and windows.

K. Deed Restriction. A deed restriction enforceable by the City shall be recorded prior to the issuance of a building permit stipulating that the ADU will not be conveyed separately from the primary dwelling unit. An alternative form of security may be substituted if it meets the intent of this provision and is approved by the City Attorney.

Sec. 5.9.04. Adult Foster Care and Adult Day Care.

A. Adult Foster Care Family Home. The adult foster care home licensee, whether one (1) person or two (2), shall be a member of the household and an occupant of the residence, and is not counted among total adults permitted as part of the care facility.

B. Adult Foster Care Small and Large Group Homes. The adult foster care group homes shall be registered and licensed as required for adult foster care under the Adult Foster Care Facility Licensing Act, Act 218 of the Public Acts of 1979, MCL 400.701 *et seq.*, as amended.

C. Adult Day Care Homes. An adult day care home shall be registered and licensed as required for group day care homes under the Child Care Organizations Act, Act 116 of the Public Acts of 1973, MCL 722.11 *et seq.*, as amended.

Sec. 5.9.05. Alcohol Sales and Consumption.

A. Purpose. A concentration of alcohol-related uses within a geographic area tend to have particularly detrimental effects on neighborhood character. Accordingly, the use type and type

of activities, hours of operation, police resources and the secondary effects resulting from these uses must be taken into consideration during the approval process.

B. Applicability. Any land use that requires a license from the Michigan Liquor Control Commission (LCC) for the sale or consumption of beer, wine or alcoholic beverages (on- or off-premises, whether packaged, by the bottle, by the glass or otherwise) and any expansion or other changes in that land use, shall require review and approval as specified in Table 5.9.05.B. The Director may submit any Director Review application to the Planning Commission for approval review.

C. Approval Procedures for the Service of Alcohol for On-Premises Consumption.

Table 5.9.05.B. Approval Procedures for the Service of Alcohol for On-Premises Consumption				
License	Description	Criteria		Review Procedure
On-Premise Consumption				
Class C, Club, Hotel, Resort, Tavern	New license for a new bar			SLU
	Expansion of an existing bar	Less than 20% increase in seating capacity and/or sq. ft. of dedicated area		Director Review: meeting criteria
				SLU: not meeting criteria
New license for new or existing restaurant; or expansion of existing restaurant with alcohol	Closing time at or before midnight		Director Review: meeting criteria	
			SLU: not meeting criteria	
Brewpub, Micro Brewer	<u>New license for new or existing Brewpub; or expansion of existing Brewpub. New license or expansion</u>	<u>Closing time at or before midnight For expansion of production (see Table 5.6.06.B., Alcohol Sales for On-Site Consumption)</u>		<u>SLU</u> <u>Director Review meeting criteria</u>
<u>Micro Brewer</u>	<u>New license or expansion</u>	<u>For expansion of production (see Table 5.6.06.B., Alcohol Sales for On-Site Consumption)</u>		<u>SLU</u>
Entertainment, Dance, After Hours	New license or expansion			SLU
Outdoor Service (see 5.9.24.)	New outdoor license for a new or existing bar or restaurant	Within public ROW at ground level		Director Review
		Private property		SLU
	Expansion of an existing outdoor service area	Within public ROW at ground level		Director Review
		Private property	Less than 20% increase in seating capacity and/or sq. ft. of dedicated area	Director Review: meeting criteria
		SLU: not meeting criteria		
Off-Premise Consumption				

Table 5.9.05.B. Approval Procedures for the Service of Alcohol for On-Premises Consumption			
License	Description	Criteria	Review Procedure
SDM	New retail license	In conjunction with a restaurant or brewpub and there is no assigned floor area or display dedicated to packaged alcohol sales.	Director Review: meeting criteria SLU: not meeting criteria
	Expansion of existing sales area		SLU
SDD	New or expanded license		SLU
SDM/SDD	25,000 sq. ft. GFA or less		SLU
	More than 25,000 sq. ft. GFA		Director Review: meeting criteria
SLU = Special Land Use			

D. Approval Procedures for the Sales of Alcohol for Off-Premises Consumption.

Table 5.9.05.D. Approval Procedures for the Sales of Alcohol for Off-Premises Consumption			
Characteristic	Criteria		Review Procedure
Hours of Operation	New establishments closing at or before 12:00 a.m.		Director Review
	New establishments closing after 12:00 a.m. with no operations past 2 a.m.		SLU
	Existing establishments maintaining current hours of operation		Director Review
Proximity	500 feet or more from an LDR/MDR zone district, park or school, as measured long the linear frontage of the primary street.		Director Review
	Less than 500 feet of an LDR/MDR zone district, park or school, as measured long the linear frontage of the primary street.		SLU
Sales Area	Stores less than 10,000 sq. ft. GFA	2% or less of GFA dedicated to alcohol sales with 16 sq. ft. or less of shelf space and not more than 2 cooler doors	Director Review
		More than 2% and less than 50% of sales area is dedicated to alcohol, or more than 16 sq. ft. of shelf space and more than 2 cooler doors	SLU
	Stores 10,000 sq. ft. GFA or greater	10% or less of GFA is dedicated to alcohol sales area	Director Review
		More than 10% of GFA is dedicated to alcohol sales area	SLU
Healthy Corner Store	Sales area for alcohol shall be equivalent to the sales area for healthy food		Director Review
	Sales area for alcohol exceeds sales area for healthy food		SLU
Store Expansion	Expansion of 20% or less of GFA		Director Review
	Expansion of greater than 20% of GFA		SLU

SLU = Special Land Use		

E. Application Requirements. Each application shall be accompanied by a detailed site plan and any information necessary to demonstrate the proposed use or change in use meets the review standards of D. below. The following shall be submitted as part of an application in addition to the requirements of Section 5.12.09.

1. License Application. A copy of the license application submitted to the LCC; or in the case of a development district license pursuant to *City Commission Policy 300-08 Requirements for Approval of Liquor License Requests in City Development Districts*, a copy of the license application submitted to the City Clerk.
2. Site Plan. A site plan illustrating the proposed location where the alcohol sales would occur, as well as all other existing locations of sales within a one thousand (1,000) foot radius measured from the lot lines of the subject site, including, but not limited to restaurants, bars, convenience stores, other alcohol retail outlets, social or service clubs, second hand sales and Regulated Uses.
3. Operations Management Plan. An Operations Management Plan must be submitted for the review of the Grand Rapids Police Department Vice Unit. The Plan must detail how the operator will manage the facility during events, ensure the security of the patrons both inside and outside the facility, and ensure the appropriate management of the liquor license(s).
4. A Crime Prevention Through Environmental Design (CPTED) analysis ~~may~~ must be completed for all new and expansion SDM and SDD license applications. The analysis must be submitted for the review of the Grand Rapids Police Department Vice Unit and submitted as part of the Director Review or Special Land Use application. ~~required by the Police Department part of the Plan.~~ A CPTED analysis may also be required for any new or expansion requests for on-premises consumption licenses.
- ~~3-5.~~ Good Neighbor Plan. A Good Neighbor Plan (GNP), completed in accordance with Article 12, Section 5.12.06.D, must be submitted for all new and expansion SDM and SDD license applications. The GNP shall be submitted as part of the Director Review or Special Land Use application

F. Review Standards. The following review standards shall be used in the consideration of an alcohol request in addition to those of Section 5.12.09., where applicable. The applicant shall provide a written statement that demonstrates how these standards are satisfied.

1. Given the character, location, development trends and other aspects of the neighborhood in which the proposed LLC licensed use or change in an LCC licensed use is requested, it is demonstrated that the neighborhood is underserved by the use and that the addition of the LLC licensed use or proposed change in use will be a demonstrable asset to the neighborhood.
2. In the case of a development area license pursuant to *City Commission Policy 300-08*, the Planning Commission or Director shall also consider the recommendations of the

development area board and may consider how the issuance of a license would promote economic growth in a manner consistent with adopted goals, plans or policies of the area.

3. The use or change in use as constructed and operated by the applicant is compatible with the neighborhood.
4. Adjacent or nearby parks (e.g., public parks or recreation centers), playgrounds (e.g., public or private), religious institutions, or schools will not be adversely affected.
5. That the applicant has considered and has procedures prepared so that the use will be constructed and operated by the applicant in a manner that has the potential to minimize or eliminate negative secondary effects on the neighborhood. Negative secondary effects can include the following factors:
 - a. Vehicular and pedestrian traffic, particularly during late night or early morning hours that might disturb area residents.
 - b. Noise, odors, or lights that spill over to any property with residential dwellings.
 - c. Excessive numbers of persons gathering outside the establishment.
 - d. Peak hours of use that materially adds to congestion or other negative traffic related effects in the neighborhood.
 - e. Fighting, brawling, public urination or other behavior that can accompany intoxication.
 - f. Robberies, shoplifting and other crimes that have a tendency to affect party stores, convenience stores and other retail establishments open late.
6. Evaluation Considerations. The Planning Commission or Director shall take the following into consideration.
 - a. For a use involving sales of beer and wine, or sales of alcoholic beverages by the glass, an application related to a full service restaurant offering full meals for consumption on the premises (and not generally for take-out) at all times it is open for business and that closes prior to midnight shall be presumed to have minimal negative secondary impacts.
 - b. For a use involving retail sales of beer, of wine and/or of alcoholic beverages for off-premises consumption, an application related to a full service supermarket or an establishment that features imported or ethnic food items not commonly available in party, convenience or grocery stores, and that closes by 11:00 p.m. shall be presumed to have minimal negative secondary impacts.
 - c. The minimal negative secondary impacts, the presumptions in a. and b. above will not apply if the current or proposed location has had instances of negative secondary impacts within a one (1) year period prior to the date of the application; or if the applicant has owned, operated or otherwise been affiliated with an establishment that has had instances of negative secondary impacts such as those described in Subsection D.5.a. The applicant may submit documentation indicating how the previous negative secondary impacts may differ from the current application, or what steps have been taken to minimize future negative secondary impacts.

G. Terms.

1. For purposes of this Section, "neighborhood" means a neighborhood served by an organized neighborhood association recognized by the City, or an area within a one thousand (1,000) foot radius of the applicant's site, whichever is greater.
2. For the purposes of this Section, "restaurant" shall refer to a full service restaurant offering full meals for consumption on the premises during all business hours (and not generally for take-out) with beer and wine, or sales of alcoholic beverages by the glass and where the average daily receipts from the sale of food exceeds fifty (50) percent of the establishment's total average daily receipts, not including sales of novelty items, income from vending machines, cover charges, or other receipts not derived from the sale of food or beverages, and the establishment closes at or before midnight.

H. Other Requirements.

1. **Cash Register Viewing Window.** The cash register for a convenience/package goods store shall be clearly visible from the street. The viewing window shall have a contiguous area of at least twenty (20) square feet of clear glass and have an unobstructed view into the store.
2. **Shelving and Cooler Placement.** ~~Display shelving and coolers shall not be placed in front of windows required to meet transparency requirements of the Zone District.~~
- 4.3. **Window Coverings.** ~~No window covering or screening shall be used in windows required to meet transparency requirements.~~
- 2.4. **Entertainment.** The requirements of Section 5.9.12. Live Entertainment shall also apply if a Dance or Entertainment permit has been requested from the State or City.
- 3.5. **Applications for Dance, Entertainment or After Hours permits shall be considered a change in land use and shall be subject to the requirements of this Section.**

Sec. 5.9.06. Attached Single-Family ~~and Two-Family Dwellings~~

- A. Attached dwellings must comply with the dimensional and design standards of Sections 5.5.06. and 5.5.07., except where these standards are expressly modified by this Section.
- B. Conversion. The conversion of attached single-family ~~and two-family dwellings~~ to a higher density on the same lot is prohibited, except where the building exceeds five thousand (5,000) square feet in gross floor area and the Director determines that the size of the house is out of character with other nearby residential uses, the use shall be heard as a Special Land Use by the Planning Commission to determine the appropriate number of units.
- ~~C. Two-Family Dwelling New Construction. New construction of a two-family dwelling is a Special Land Use in Low-Density Residential Zone Districts and is a Permitted Use in Mixed-Density Residential Zone Districts, in accordance with all applicable requirements of Table 5.5.05.B. and this Article.~~
- ~~D. Minimum Lot Area. The minimum lot area per dwelling unit is as required in the Zone District.~~

E.C. Minimum Setbacks.

1. Interior Lots. The minimum required interior side setback on the side of the dwelling unit containing the common wall is reduced to zero. The (interior) side and rear setback standards of the Zone District apply around the perimeter of the project.
2. Corner Lots.
 - a. The interior side setback may be reduced to zero. However, the remaining side setback must comply with the standards of the Zone District.
 - b. The required building setback from one (1) front lot line may be reduced to fifteen (15) feet. This setback may be further reduced to match the predominant setbacks of adjoining structures on the same side of the street between the nearest intersecting streets or alleys, provided that a minimum setback of three (3) feet is provided in all cases.

F.D. Minimum Building Width. Each dwelling shall have a minimum dimension of ~~eighteen~~ fourteen (184) feet in any horizontal dimension.

G.E. Separation Between Walls.

1. When the end wall of a row of attached single-family dwellings faces the front wall or rear wall of another row of attached dwellings, there shall be at least twenty (20) feet between the main buildings (excluding minor building projections allowed under Section 5.2.05.).
2. Driveways, walkways, and open parking areas may be located within this separation area, provided that landscaped planting areas with a minimum separation of four (4) feet from one (1) building wall are provided.

H.F. Building Facades on Public Streets.

1. Building Facades. Building facades that face public streets shall include elements typical of a front facade, including doors and/or windows.
2. Attached Single-Family Dwelling Facade Treatment. The front of each dwelling must be distinct through either the use of different facade materials; staggered building lines of at least two (2) feet; an identifiable permanent architectural design element such as a chimney; pilaster or column (excluding gutter spouts or siding trim); or a combination of these methods.

I.G. Attached Single-Family Roof Line. The roof line of each dwelling must be distinct through either a separation of roof pitches (minimum difference at least five (5) degrees), a difference in roof direction, a difference in roof height (minimum of two [2] vertical feet), or a combination of both methods.

J.H. Garage Doors.

1. Attached Single-Family Garage Door Entrances.
 - a. Garage door entrances for individual dwellings shall not face a public street. Alleys or interior driveways shall be used for access. This provision is not intended to prohibit garage doors that serve common parking areas.

- b. Administrative Departure. Garages for individual dwellings may be approved to face a public street where site conditions warrant. If approved, garage doors shall be set back at least twenty (20) feet from the front lot line. Garage doors shall be subject to the same transparency requirements as the building facade.
- 2. Maximum Width. Garage doors facing the street may not occupy more than forty (40) percent of the width of the street-facing facade of the main building. The maximum continuous, uninterrupted width of a garage door (or combination of smaller, single-car garage doors) along the street-facing facade may not exceed twenty-five (25) feet. A minimum separation of two (2) feet is required between garage doors.
- 3. Recess. All garage doors must be recessed at least five (5) feet from the front building wall nearest the front lot line.

K.I. Private Yards.

- 1. Minimum Area. Each attached single-family dwelling shall have at least two hundred (200) square feet of private yard with a minimum dimension of five (5) feet. All private yards shall have a minimum contiguous area of.
- 2. Location. For attached single-family dwellings, the private yard shall be contiguous to individual units, immediately adjacent to a wall of the dwelling it serves.
- 3. At Grade. Required private yards may be at grade, or within four (4) feet of grade if a terrace or patio. An Administrative Departure may be approved for a deck that is more than four (4) feet above grade.
- 4. Contiguous to Common Open Space. Required private yards for attached single-family dwellings may be within a common open space area provided that the common area is contiguous and directly accessible to the dwelling and the private yard area exceeds the minimum required common open space.
- 5. Driveways and Parking. No driveways or off-street parking spaces (open or enclosed) may be located within required private yards.

L.J. Attached Single Family Dwellings - Common Open Space.

- 1. Minimum Required Open Space. In addition to required private yards in Section 5.5.08.K., an attached single-family dwelling development of forty (40) or more units must provide a minimum of one hundred fifty (150) square feet of common open space per dwelling unit.
- 2. Minimum Dimensions. Required common open space must be located on the same lot as the development and in one (1) or more usable, common areas, each with minimum dimensions of twenty-five (25) feet and a minimum area of two thousand (2,000) square feet.
- 3. Accessibility and Landscaping. Common open space areas must be accessible to all attached single-family dwellings and must be improved with landscaping, recreational facilities, and/or walkways.

4. Trees. Trees must be planted within common open space areas at the rate of one (1) tree for every one thousand (1,000) square feet of required common open space. All trees must have a minimum two and one-half (2½) inch caliper.
5. Driveways and Parking. No driveways or off-street parking spaces (open or enclosed) may be located within the common open space. Bollards, curbs, wheel stops or other similar features shall be provided to ensure that required open space is not used for off-street parking, loading or vehicle circulation.

Sec. 5.9.07. Auditorium, Theatre and Banquet Hall.

- A. Loading Areas. Loading and unloading areas shall be shown on the site plan and designed to avoid pedestrian/vehicular conflicts or unnecessary vehicle movements in the public right-of-way.
- B. Alcohol Sales or Entertainment Requirements. The requirements of Section 5.9.05. Alcohol Sales and Consumption and/or Section 5.9.12. Live Entertainment shall apply if these activities are planned to occur on the premises.
- C. Remote Broadcasting.
 1. Up to two (2) remote broadcasting sites where radio and/or television broadcasting occurs off-site from the principal location of the broadcasting station may be permitted within three hundred (300) feet of the main entrance of a theater complex, auditorium or arena in which an event is being held.
 2. Remote broadcasting sites are only permitted in the TN-CC Zone District in conjunction with the following:
 - a. An arena with a seating capacity of ten thousand (10,000) persons or more; and
 - b. A convention center having one hundred thousand (100,000) square feet or more of floor area.
 3. Remote broadcasting sites shall be permitted for up to ten (10) events each year and for a maximum of eight (8) days for each event. Sites and all equipment, signs, and other evidence of the use shall be removed immediately after the termination of the event for which it is associated.

Sec. 5.9.08. Bed and Breakfast.

- A. Principal Residence of Owner. The dwelling unit in which the bed and breakfast operates shall be the principal residence of the owner-operator who shall reside on the premises at all period when the use is in operation.
- B. Exterior Appearance. The structure shall maintain an exterior appearance that is in character with surrounding residential uses. The requirements of Article 15 Signs shall apply.
- C. Guest Rooms. The number of guest rooms is limited to one (1) fewer than the total number of bedrooms in the dwelling unit, not to exceed five (5) guest rooms. Maximum occupancy is limited to two (2) adults per guest room. Use of more than five (5) guest rooms shall be considered short-term lodging as provided in Table 5.6.06.B.

- D. **Maximum Stay.** The owner shall ensure that the length of stay for a lodger not exceed thirty (30) consecutive days.
- E. **Cooking.** Separate cooking facilities are prohibited.
- F. **Accessory Services.** Accessory services such as personal service and retail or alcohol sales are permitted within a bed and breakfast use only if individually and expressly approved by the Planning Commission and shall only be for guest services and not as a commercial enterprise available to the general public.
- G. **Parking.** One (1) additional on-site parking space shall be provided for each guest room in addition to the parking required for the principal residence. On-street parking shall not be used to fulfill this requirement.
- H. **Proximity.** In order to avoid the concentration of intensive, non-residential land uses in residential neighborhoods, maintain residential character, and compatibility with adjacent residential uses, no bed and breakfast shall be within a five-hundred (500) foot radius of another existing bed and breakfast, as measured from the perimeter of the parcel.
- I. **Special Events.**
 - 1. A bed and breakfast establishment may hold up to four (4) events within a calendar year where non-guests of the bed and breakfast are allowed to use the premises. Events shall have a maximum duration of two (2) days per occurrence.
 - 2. Food and drink may be served to non-guests at an approved event.
 - 3. Sufficient parking shall be provided for each event and occupancy limits shall be determined by the Fire Department and/or Building Official with proper safeguards in force for places of assembly.
 - 4. A temporary use permit shall be obtained in compliance with Sections 5.9.35.A-B. and H., except that maximum duration of each occurrence as specified in I.1. above shall apply.

Sec. 5.9.09. Child Care Center.

- A. **Outdoor Play Area and Fencing.** There shall be on-site outdoor play area sufficient to meet State regulations. All required outdoor play areas shall be enclosed with a minimum of four (4) foot high fence. If placed in the front yard, the fence shall be of an open style, decorative design. All other fence requirements of Section 5.2.11. shall be met.
- B. **Ingress and Egress.** Vehicle ingress and egress shall be provided as far as possible from street intersections.
- C. **Pick Up and Drop Off Area.** An on-site drive shall be provided for drop off and pick up of children near the entrance. Stacking area for the drop off/pick up area shall meet the requirements of Section 5.10.03.F.8. and shall be designed to prevent vehicles from stacking into or creating a hazard to traffic flow on the public street or creating obstructions to pedestrian movements on sidewalks or on the site of the child care center.
- D. **Accessory to Institutional Use.** A child care center may be permitted as an accessory use to an institutional use, such as a religious institution, subject to satisfying all of the applicable necessary requirements of this Article

Sec. 5.9.10. Drive-In or Drive-Through Facility.

- A. Purpose. The requirements of this Section are intended to minimize the potentially adverse effects of drive-in or drive-through activities on surrounding properties, pedestrians and traffic flow.
- B. Minimum Lot Depth. A minimum lot depth of two hundred (200) feet is required.
- C. Minimum Lot Size. A minimum lot size of one (1) acre is required per drive-through use.
- D. Hours of Operation. Hours of operation shall be restricted to the hours between 6:00 a.m. to 12:00 Midnight if within one hundred fifty (150) feet of a Residential Zone District.
- E. Operations.
 - 1. The stacking requirements of Section 5.10.03.F.8. shall be met.
 - 2. The Traffic Engineering Department shall review proposed stacking areas leading up to and from the service window, menu board, or similar service area for a drive-in or drive-through facility, and shall determine the number of stacking spaces required for that use or, alternatively, may require the applicant to provide a queuing analysis for uses generating more than thirty (30) trips per hour at peak times.
 - 3. Drive-through lanes and stacking areas, menu boards, speakers, or service windows shall not be placed on a street facing side of a building or within twenty-five (25) feet of the lot line of any Residential Zone District or use unless the Planning Commission determines that no other location is feasible.
- F. Pedestrian Walkways. Pedestrian walkways within the site shall be clearly visible, and be emphasized by enhanced paving, a clear change in material, or markings where they intersect drive-in or drive-through aisles.
- G. Screening Requirements.
 - 1. Any lot line adjacent to a Residential Zone District shall be screened in accordance with the provision of Section 5.11.12.
 - 2. All service areas and ground-mounted mechanical equipment shall be screened from ground-level view. Trash storage shall comply with the requirements of Section 5.2.13.
- H. Integrated Drive-Through. In the TN-TCC, TOD and SD-PRD Districts a drive-in or drive-through facility located shall be allowed only as part of a larger mixed-use project and integrated into a main building and are not permitted with freestanding, single use buildings. In these Zone Districts, all customer service areas associated with the drive-through use shall be enclosed within a main building, such as a drive-through lane within a parking structure or associated with a multi-use building.
- I. Banks, Credit Unions and Financial Institutions. Drive-through lanes servicing Automated Teller Machines (ATMs), transaction windows and tubes shall be reviewed for placement number, activity level, noise and hours of operation.

Sec. 5.9.11. Electrical Substations and Private Utilities.

- A. Outdoor Enclosure. Screening is deemed necessary to recognize the permanence of the infrastructure, help increase safety, reduce maintenance requirements, and lessen the opportunity for graffiti or vandalism.
- B. The outdoor enclosure of above-ground essential service utilities shall be screened using a permanent brick or decorative textured block wall at least one (1) foot taller than the equipment being screened, provided that the screen need not be higher than ten (10) feet.
- C. Administrative Departure. An Administrative Departure may be granted and alternative enclosure or screening materials approved if the functioning of the utility would be adversely affected by this requirement or if the location of the infrastructure is not clearly visible from a public street or nearby residential uses.

Sec. 5.9.12. Live Entertainment.

- A. Live Entertainment shall only be used in conjunction with a banquet hall, restaurant, bar or similar facility.
- B. Review Standards. The following considerations shall be used by the Planning Commission and the Director in the deliberation and approval of a Live Entertainment request in addition to the review standards of Section 5.12.09.
 - 1. Whether adjacent or nearby parks (e.g., public parks or recreation centers), playgrounds (e.g., public or private), religious institutions, or schools are adversely affected.
 - 2. Vehicular and pedestrian traffic, particularly during late night or early morning hours that might disturb area residents.
 - 3. Noise, odors, or lights that spill over to any property with residential dwellings.
 - 4. Excessive numbers of persons gathering outside the establishment.
 - 5. Peak hours of use that materially adds to congestion or other negative traffic related effects in the neighborhood.
- C. Sound-Proofing. The building shall be sound-proofed to meet the requirements of the Noise Control Ordinance (Chapter 151, Article 5 of the City Code). The noise analysis and the method of construction being used to meet the standards of the Noise Control Ordinance shall be provided to the Director prior to the issuance of a building permit.
- D. Building Openings. No entrance or exit to the main building in which the activity will occur shall face an adjacent residential use. All other doors and windows, including fire exits, which may direct sound to residential properties shall remain closed during the entertainment.
- E. Hours of Operation. Hours of operation shall not extend beyond 2:00 a.m.

Sec. 5.9.13. Helistops and Heliports.

- A. Landing and Takeoff Restrictions. No person shall cause or allow a helicopter to land or takeoff in a TN-CC or TN-TCC Zone District between the hours of 11:00 p.m. and 7:00 a.m., nor shall any person cause or allow more than fifteen (15) landings and fifteen (15) takeoffs a month from any one (1) site, nor more than two (2) landings and two (2) takeoffs per day from any one (1) site.

- B. Special Events. The City Manager may grant written permission for additional landings and takeoffs for special events deemed by the Manager to be of community significance.
- C. Noise Limitations.
 - 1. No person shall operate a helicopter or permit a helicopter to be operated so as to exceed the noise limits established in the Noise Control Ordinance (Chapter 151, Article 5 of the City Code).
 - 2. Engine Operation. A helicopter engine shall not remain in continuous operation at a landing site for a duration of more than three (3) minutes.
- D. Exemptions. The provisions of this Section shall not apply to hospitals and emergency centers providing helicopter services, or for emergencies, dignitaries, or City-sponsored event landings and takeoffs.

Sec. 5.9.14. Home Occupations.

- A. Purpose and Conformance.
 - 1. The regulations of this Section are intended to ensure that home occupations remain subordinate to the residential use, the residential viability of the dwelling is maintained, and that the use not be a detriment to the character and livability of the surrounding neighborhood.
 - 2. The dwelling shall conform to all requirements of the Zone District.
- B. Business License and Approvals.
 - 1. All home occupations shall obtain a business license from the City Clerk. Home occupations shall be licensed pursuant to Chapter 116 Home Occupation of the City Code. Chapter 116 describes three occupational classes: Class A, which shall have minimal to no impact on the surrounding neighborhood; Class B and Class C, which have the potential for adverse effects to the neighborhood or community.
 - 2. All license applications shall include an interior floor plan provided clearly indicated the planned location for the conduct of the home occupation, total living area square footage by the floor, and living area square footage by floor devoted to the home occupation.
 - 3. Table 5.9.14.B summarizes the Classes and requirements for home occupations and the required approval processes.

Table 5.9.14.B Home Occupation Classes			
Characteristic	Requirement		
	Class A	Class B	Class C
Approval Process	Director Review	Director Review	Special Land Use
Examples (non-inclusive)	Internet-sales, home office, bookkeeping	Medical marihuana primary caregiver; music, fine arts instructor; one-room rental	Bed and breakfast See 5.9.08.
			Rooming house See 5.9.30.
Residential Type		Single-family, two-family	Bed and breakfast See 5.9.08.

Table 5.9.14.B Home Occupation Classes			
Characteristic	Requirement		
	Class A	Class B	Class C
	Single-family, two-family, multiple-family		Rooming house See 5.9.30.
Property Ownership	Owner or renter	Owner or renter with owner consent	Owner
Walk-in Retail Trade	Not permitted	Not permitted	Not permitted
Business-Related Visitors by Appointment	Not permitted	No more than 2 at any one time; hours of operation 7:00 a.m. to 8:00 p.m.	Bed and breakfast guests; not applicable to rooming houses

C. Signs shall comply with the requirements of Article 15.

D. Not More Than One (1) Employee. Not more than one (1) person who is not a resident of the dwelling shall be involved in the home occupation.

D.E. Space Limitations.

1. No part of an accessory structure, either attached or detached, shall be used in connection with the home occupation.
2. Class A and Class B.
 - a. Not more than one-fourth (¼) of the residential floor area of the dwelling unit and less than one-half (½) of the residential floor area of the main floor shall be devoted to the home occupation.
 - b. In no instance shall all home occupations in any single dwelling unit permanently occupy more than three hundred (300) square feet of the dwelling unit.

E.F. Alterations.

1. Exterior Alterations. Home occupations shall not require exterior alterations or involve construction features not customary for dwellings.
2. No new external entrance to the space devoted to the occupation shall be created.
3. Interior Alterations. Any permanent structural alterations to the interior of the dwelling unit for purposes of conducting the home occupation which would render it unsuitable for residential use shall be prohibited.

F.G. There shall be no outdoor storage of items related to the home occupation.

G.H. The activity shall not require the creation of any additional parking spaces to service the home occupation.

H.I. Residency. Residency within the dwelling unit in which the home occupation is conducted shall comply with licensing provisions of Chapter 116 Home Occupation of the City Code.

I.J. Hazards or Nuisances. No home occupation shall be permitted which would increase traffic, fire and safety hazards, noise, dirt, odor, dust, gas, glare, fumes, vibration or other nuisance

elements, or require the use of mechanical or electrical equipment which create a nuisance to the adjacent neighborhood.

J.K. Other Codes. All Building, Housing, Fire and other local or State Codes and ordinances, including Chapter 116 Home Occupation of the City Code, shall be met.

K.L. Prohibited Occupations. The following shall not be considered as home occupations, including, but are not limited to:

1. Animal processing.
2. Any repair of motorized vehicles, including the painting or repair of automobiles, trucks, trailers, boats, and lawn equipment.
3. Animal hospitals or kennels.
4. Barber shops or beauty parlors.
5. Restaurants or catering/food preparation businesses, except catering/food preparation businesses operating in compliance with the Cottage Food Law, PA 113 of 2010.
6. Medical or dental offices.
7. Construction businesses or landscaping businesses that provide the storage of goods, equipment and materials to be utilized in the operation of the business or use.
8. Furniture finishing and refinishing.
9. Warehousing.
10. Welding or machine shops.
11. Any other occupation or service which, in the opinion of the Director, creates unnecessary noise, vibration, glare fumes, odors, or electrical interference detectable to the normal senses, off the premises, or has the potential to adversely affect the character of the neighborhood.

L.M. Fine Art/Craft/Music Instruction. Instruction in a fine art, craft or music is a permitted home occupation.

M.N. Medical Marihuana. A registered primary caregiver, in compliance with the General Rules of the Michigan Department of Community Health, the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d) and the requirements of this Chapter, shall be allowed as a home occupation upon receipt of a valid Home Occupation - Class B license from the City Clerk. Nothing in this Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the General Rules. Also, since Federal law is not affected by that Act or the General Rules, nothing in this Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law. The Michigan Medical Marihuana Act does not protect users, caregivers or the owners of properties on which the medical use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal

Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:

1. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
2. A registered primary caregiver must be outside of a one-thousand (1,000)-foot radius from any school, including child a care or day care facility, or to ensure community compliance with Federal "Drug-Free School Zone" requirements.
3. Not more than one (1) primary caregiver shall be permitted to service qualifying patients on a parcel.
4. Not more than five (5) qualifying patients shall be assisted with the medical use of marihuana within any given calendar week;
5. All medical marihuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the Building Official and the Police Department.
6. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana are located.
7. If a room with windows is used as a growing location, any lighting methods that exceed usual residential periods between the hours of 11:00 p.m. to 7:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.
8. That portion of the residential structure where energy usage and heat exceeds typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Fire Department to ensure compliance with the Michigan Fire Protection Code."

Sec. 5.9.15. Reserved.

Sec. 5.9.16. Live-Work Units.

- A. A dwelling unit may provide live-work opportunities or artists' loft/studio arrangements that includes limited commercial activities on the ground level. Live-work units shall comply with ground floor residential use restrictions of this Chapter.
- B. Permitted Uses. Permitted Uses in the NOS Neighborhood Office Service and TBA Traditional Business Area Zone Districts shall be permitted as live-work uses. Ground floor use requirements for non-residential uses shall not apply.
- C. Location. The live-work unit shall be on a Regional or Major Street as defined in the City's Street Classification Policy.
- D. Space Limitations. The commercial portion shall remain accessory to the primary residential use. A maximum of one-half (½) of the usable area of the dwelling may be devoted to a non-residential use. No part of an accessory structure, either attached or detached shall be used.

- E. Direct Access. There shall be at least one (1) direct access between the working and living spaces within the live-work unit.
- F. Residency. At least one (1) full-time employee who shall also be a resident of the property shall work in the work portion of the live-work unit.
- G. Leases. The owner of the working and living spaces shall be a party to the same lease and shall be the lease holder of the property.
- H. Multiple Live-Work Units. Where there are multiple live-work units within a single structure, each unit shall be physically separated from other units and uses within the structure, and access to individual units shall be from a common open space, corridor, hallway, or other common access areas.

Sec. 5.9.17. Manufactured Housing Community.

- A. A Manufactured Housing Communities shall comply with Act 96 of the Michigan Public Acts of 1987, as amended.
- B. Access and Circulation. A Manufactured Housing Community shall have two (2) points of ingress and egress, with frontage on a Regional or Major Street as defined in the City’s Street Classification Policy. Internal streets shall meet all applicable City requirements for two-way streets.
- C. Pavement and Curbing. All internal streets shall be paved and curbed. Access to individual manufactured house sites shall only be provided via internal streets.
- D. Utilities and Drainage. Public water and sewer shall be connected to all manufactured housing units either separately or as a single unit. The Manufactured Housing Community shall manage all stormwater on site.
- E. Screening and Landscaping. A Manufactured Housing Community which is adjacent to a LDR Zone District shall meet the landscape buffer requirements in Section 5.11.11.
- F. Required Open Space. A Manufactured Housing Community with thirty (30) or more house sites shall contain at least one (1) designated open space area of two (2) percent of the total area of the site of the Manufactured Housing Community, with at least twenty-two thousand (22,000) square feet, and shall otherwise satisfy the urban open space requirements of 5.11.14.
- G. Outdoor Storage. No personal property shall be stored outside or under any manufactured house. The storage of recreational vehicles shall be permitted only in the storage area designated by the owner of the development and shall be limited to the use of the residents. The storage yard shall be completely screened around its perimeter by a six (6) foot high solid decorative wall or fence.
- H. Accessory Structures.
 - 1. One (1) accessory structure, not to exceed one hundred twenty (120) square feet, shall be permitted for each manufactured housing unit.
 - 2. Accessory structures shall not be located in the front yard of the housing unit, or on the side of the unit facing a street on a corner lot.
 - 3. Attached accessory buildings shall be at least ten (10) feet from an adjacent manufactured housing unit and consist of materials similar to the manufactured housing unit.
- I. Submittal. Application for the construction, alteration, or extension of a Manufactured Housing Community shall be submitted for Director Review.

Sec. 5.9.18. Materials Recovery, Recycling, Equipment Wrecking and Salvage.

- A. Applicability. The provisions of this Section shall apply to all materials recovery and recycling operations, including the processing of junk, waste, discarded or salvaged materials, machinery, or equipment, including vehicle wrecking or dismantling.
- B. The site shall be a minimum of two (2) acres.

C. Screening.

1. Outdoor storage and activities shall be completely screened from view, as seen from public rights-of-way and adjacent properties, by a solid wall or fence with a uniform minimum height of at least eight (8) feet and a maximum height of ten (10) feet. The wall or fence shall be constructed of uniform, high-quality, weather-resistant materials. Walls, fences and gates shall be kept in good repair (free of chips, peeling and graffiti) and setback a minimum of six (6) feet from lot lines abutting public rights-of-way.
2. Landscaping. A vegetative ground cover shall be planted between the required fence and public right-of-way and maintained in good condition. Berms and landscaping shall be installed at all locations around the site that lack natural screening in accordance with the Section 5.11.12., provided that berm height is not restricted.

D. Machinery, Building, Mining and Stockpile Setbacks. All wrecked vehicles, machinery, equipment, buildings, structures and activities shall meet the following minimum setbacks. Where more than one (1) setback is applicable, the greater setback distance shall apply.

1. Twenty-five (25) feet from any lot line;
2. One-hundred (100) feet from a residential Zone District;
3. Five hundred (500) feet from a residence, and;
4. Three hundred (300) feet from any stream, water body or wetland.

E. Noise, Odors, Smoke, Fumes, or Dust. Any noise, odors, smoke, fumes, or dust generated on the site by any digging, excavating, loading or processing operation and apt to be borne by the wind, shall be confined to prevent a nuisance or hazard on adjacent properties or public street.

F. Haul Route Map. An area map delineating the haul route to be used for the proposed operation shall be submitted to the Director. Haul routes shall not pass through residential areas, except on Regional or Major Streets, and shall be approved by the City's Traffic Engineering Department.

G. Noise Control Plan. The Special Land Use application shall include a study and report prepared by a qualified professional that estimates the noise levels at the lot lines containing the extraction operation and at successive stages of the operation. The plan shall contain mitigation measures to be implemented when noise levels exceed acceptable standards.

H. Hours and days of operation shall be subject to Planning Commission approval based on the potential effects on surrounding properties, traffic conditions on affected roadways, and other similar factors.

I. Evidence of applications for Federal and/or State licensing permits for crushing facilities shall be submitted as part of the Special Land Use application.

Sec. 5.9.19. Reserved.

Sec. 5.9.20. Multiple-Family Dwellings.

A. Applicability. The following requirements apply to multiple-family dwellings, not including attached single-family dwellings, within any Residential Zone District, unless otherwise noted.

B. Location.

1. Except as otherwise permitted in Section 5.5.05.D.1.b.i, mMultiple-family dwellings dwellings within the LDR and MDR zone districts shall be permitted~~located~~ on a Regional Street, Major City Street or City Collector Street, or within two hundred (200) feet of a Regional or Major Street as defined in the City's *Street Classification Policy*. ~~The Planning Commission may waive this requirement for redevelopment projects.~~
2. For parcels within the TOD Zone District, a ground floor residential use is a Permitted Use, except that a Special Land Use approval shall be required when the use is proposed within one hundred (100) feet of a Major or Regional Street.

C. Conversions. Existing single-family and two-family dwellings shall not be converted to a multiple-family dwelling except as provided in Sections 5.2.07. and 5.5.08.

D. Open Space.

1. Minimum Required Greenspace or Urban Open Space.
 - a. In the MCN and MON district, every residential unit shall have a minimum of sixty-five (65) square feet of greenspace or urban open space and the required open space must be provided on the same lot as the dwelling unit(s) it serves.
 - b. The open space area shall be substantially covered with grass, ground cover, shrubs, plants, trees or usable outdoor space open features, such as walkways or patios.
 - c. The open space area shall not be less than twelve (12) feet in any dimension.
 - d. The open space area must be usable, and cannot be occupied by mechanical equipment, dumpsters or service areas.
2. Required Rear Yard. In the MCN and MON districts, the required rear yard open space shall be within the rear yard, at ground level or, if on a terrace or patio, within four (4) feet of ground level. Where structures are in the rear yard setback and do not exceed six (6) feet in height, required open space may be provided directly above the structures.

E. Driveways and Parking. No driveways or off-street parking spaces (open or enclosed) shall be within the required rear yard space. Bollards, curbs, wheel stops or other similar features shall be provided to ensure that required rear yard open space is not used for off-street parking, loading or vehicle circulation.

F. Building Elements.

1. In addition to the Building Element standards of Section 5.5.07, where Small Multiple-Family residential developments are a Permitted Use within the LDR zone districts, the following standards must be met:
 - a. Building Footprint. The maximum building footprint of the primary structure shall be no greater than one-hundred and fifty percent (150) of the median building footprint of

single-family structures on the same block. For the purposes of this calculation, the same block is defined as both block faces, in the same Zone District, not to exceed five (5) lots on each side of the subject parcel and five (5) lots directly across the street.

b. Building Width. The maximum building width of the primary structure shall be no greater than one-hundred and fifty percent (150) of the median building footprint of single-family structures on the same block. For the purposes of this calculation, the same block is defined as both block faces, in the same Zone District, not to exceed five (5) lots on each side of the subject parcel and five (5) lots directly across the street.

c. Building Separation. Where more than one structure is proposed, the minimum building separation shall be a minimum of ten (10) feet.

d. Entrances. In addition to the requirements of Section 5.5.07.E, one entrance on a multiple-family structure facing a Primary Street shall be allowed.

Sec. 5.9.21. Mineral Extraction.

A. Exemptions. The following shall be exempt from the requirements of this Section:

1. The usual and customary balancing of land by cutting and filling on a site in preparation for an approved development project provided that the removal does not exceed two-hundred (200) cubic yards.
2. Excavation associated with public streets, sewer or water lines, public utilities, and other similar uses.
3. Any mineral extraction operation that was in existence and otherwise lawfully operated prior to the effective date of this Chapter.

B. Site Requirements.

1. Machinery, Building, Mining and Stockpile Setbacks. All machinery, equipment, buildings, structures and activities shall meet the following minimum setbacks. Where more than one (1) setback requirement in this subsection is applicable, the greater setback distance shall apply.
 - a. Fifty (50) feet from any lot line;
 - b. One-hundred (100) feet from a Residential Zone District; and
 - c. Three-hundred (300) feet from any stream, water body or wetland.
2. Nuisance or Hazard. Any noise, odors, smoke, fumes, or dust generated on the site by any digging, excavating, loading or processing operation and borne, or apt to be borne by the wind, shall be confined to prevent a nuisance or hazard on adjacent properties or public streets.
3. Landscaping. Berms and landscaping shall be installed at all locations around the site that lack natural screening in accordance with the requirements of Section 5.11.12.
4. The following information shall be provided in addition to information required for a Special Land Use submittal.

- a. A tree inventory on a site map showing the location of all trees eighteen (18) inches in diameter or larger in the area(s) affected by mining shown by numbered dots, with an accompanying database table of corresponding species, caliper size listings, and condition.
 - b. A site inventory that contains the identification of all water bodies, wetlands, woodlands, flora, floodplains, floodways, hydric soils, groundwater recharge areas, water table levels and flows, in addition to a written description of the quality, character, and health of the natural features.
 - c. Division of the site into a series of cells that illustrate the sequence of the proposed extraction activities and estimated dates for activities.
 - d. Reclamation Plan as described in C, below.
 - e. Supporting Documentation as described in D, below.
- C. Required Reclamation Plan. A plan shall be submitted showing how the entire property shall be returned to a developable site for uses that are permitted in the Zone District. The reclamation plan shall include the following:
1. Grading information showing proposed topography at contour intervals of not less than two (2) feet.
 2. Schedule of progressive rehabilitation and the proposed date for completing all extraction operations and handling of all spoils and extraneous materials.
 3. Concept plan(s) for the proposed end use of the site when restored, drawn to scale, and prepared by a professional engineer, licensed architect, or licensed landscape architect. The concept plan shall include:
 - a. The proposed circulation system, including the location of internal roads and connection to the external road network;
 - b. Delineation of drainage patterns, identification of lakes, floodplains, water bodies, wetlands; and
 - c. Lot layout and other development information.
- D. Supporting Documentation.
1. Haul Route Map. An area map delineating the haul route to be used for the proposed operation shall be submitted. Haul routes shall not pass through residential areas, except on Regional or Major Streets, and shall be approved by the City's Traffic Engineering Department.
 2. Noise Control Plan. A study and report prepared by a qualified professional which estimates the noise levels at the lot lines containing the extraction operation and at successive stages of the operation shall be submitted. This plan shall contain mitigation measures to be implemented when noise levels exceed acceptable standards.
 3. Soil Erosion Plan. A dust and mud control plan shall be included as part of the submittal to the City's Environmental Protection Services Department.

4. Impact Mitigation Plan. A plan to mitigate effects resulting from mineral extraction, and the method by which complaints about any aspect of the facility operation or off-site transportation are to be received and resolved shall be submitted. This plan shall set forth the procedures to address complaints regarding adverse effects, such as noise, fugitive dust, ground water changes, wetland loss or other potential effects.

E. Operation Requirements.

1. Hours of Operation. The Planning Commission shall set the appropriate days and times for extraction and transportation operations based on the potential effects on surrounding properties, traffic conditions on affected roadways, and other similar factors.
2. Hazardous Materials. All fuels, chemicals and other hazardous materials to be located on-site shall be noted in the application, including material, quantity, use, and method of primary and secondary containment.
3. Equipment Storage. Only equipment or vehicles owned or leased by the operator shall be stored on the site overnight.
4. Ingress and Egress Roads. Entrance roads used from any adjacent street shall be hard surfaced with a concrete or bituminous substance for at least one hundred and fifty (150) feet from the entrance to the site.
5. Outside Materials. No material from outside the site shall be brought in for processing or storage.
6. Reclamation.
 - a. After mining is completed on one specified area, quadrant, or cell, reclamation shall follow progressively in reasonable stages set forth in the plan before mining continues on other areas of the site. Extraction areas which are inactive or expected to be inactive for over one (1) year shall be stabilized and slopes reduced to one (1) vertical foot to four (4) horizontal feet.
 - b. All rehabilitation activity shall be in compliance with soil erosion and sedimentation requirements of the City, as well as state and federal governments. Ground cover and other plantings to stabilize the soil surface and to beautify the restored area, as well as to protect from erosion and siltation, shall be provided. All seeding and planting materials shall be of native stock or plantings approved by the Director.
 - c. Reclamation of the entire site shall be completed within nine (9) months of cessation of all mining operations. All plant structures, buildings, stockpiles and equipment shall be removed within the time limit; provided, however, that structures that have a function under the reclamation plan and can be lawfully used under the requirements of the Zone District may be retained.

Sec. 5.9.22. Outdoor Activities (Excluding Vehicle Sale/Lease or Rental).

- A. Principal Use Required. Outdoor activities shall be accessory to the principal use in the Mixed-Use Commercial Zone Districts.
- B. Parking Lot. The area used by outdoor activities shall not occupy required vehicle or bicycle parking spaces.

- C. Pedestrian Space. A minimum pedestrian clear space of five (5) feet is required along all public walkways in accordance with Section 5.10.08. Pedestrian Access and Circulation.
- D. Clear Vision. Outdoor activities areas shall be outside of clear vision areas.
- E. Encroachment Permit. An encroachment permit shall be obtained from the City if an outdoor activity area is in the public right-of-way or on public property.
- F. Required Materials. A site plan and related materials shall be submitted that includes:
 - 1. The location and dimensions of the outdoor activities;
 - 2. Site dimensions and setback distances of all buildings or other planned structures or display areas;
 - 3. Existing public improvements, such as fire hydrants, bus shelters, trees and tree grates and parking meters; and
 - 4. Photographs of the area.

G. Outdoor Displays.

1. Items or products shall be displayed no farther than fifteen (15) feet from the commercial building or structure.
2. Items or products shall not be displayed during non-business hours, except in a designated display case.
3. Display areas that abut a Residential Zone District along a side or rear lot line shall be effectively screened from view of the Residential Zone District by a six (6) feet high solid wall or fence, or dense vegetative screen.

H. Food Preparation and Cooking. Special Land Use approval is required for outdoor food preparation and cooking, subject to the following requirements.

1. Food preparation shall be directly related to the principal use on the same lot.
2. All equipment shall be on private property.
3. Cooking apparatus must be separated from areas of pedestrian movement.
4. Smoke emissions shall not impair pedestrian or vehicular sight distances or serve as a distraction at street intersections.
5. An Administrative Departure may be granted provided that there are no residential uses located within two-hundred (200) feet of the property.

Sec. 5.9.23. Outdoor Recreation Fields.

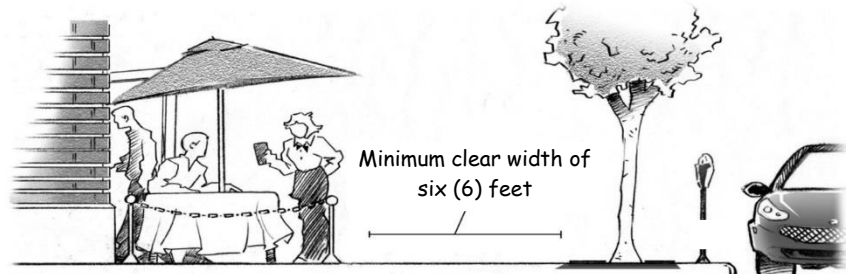
- A. Loading Areas. Loading areas shall be shown on the site plan and designed to avoid pedestrian/vehicular conflicts or unnecessary vehicle movements in the public right-of-way.
- B. Alcohol Sales and Entertainment. The requirements of Section 5.9.05. Alcohol Sales and Consumption and Section 5.9.12. Live Entertainment shall also apply if planned on the premises.
- C. Outdoor Lighting. Outdoor lighting shall be designed specifically for playfields. Pole height shall be no taller than sixty (60) feet unless evidence is provided by the applicant that a greater height is necessary to manage spillover light from occurring on abutting properties.
- D. Noise Control. Any use of loud speakers or other sound amplification, including hours of operation, frequency, duration and level shall receive specific approval by the Planning Commission during its review of the project request.

Sec. 5.9.24. Outdoor Seating Areas.

- A. Accessory Use. Outdoor seating areas shall be permitted as an accessory use to a principal use such as a restaurant, café or similar establishment.
- B. Application Materials. A site plan shall be submitted that includes the location and dimensions of the outdoor seating area; proposed type and location of fencing or other separation barriers; proposed dimensioned layout of tables and seating; dimensions of the building; and existing public improvements, such as fire hydrants, bus shelters, trees and tree grates and parking

meters. Photographs of the area and specification for proposed outdoor barriers and furniture shall be included.

- C. **Pedestrian Space.** A minimum pedestrian clear width of six (6) feet is required along all public walkways at all times, unless waived in accordance with Section 5.10.08.C.2.



5.9.24.C: Pedestrian Space

- D. **Trash Receptacles.** Trash receptacles related to outdoor seating areas shall be provided outside of the public right-of-way during non-business hours.
- E. **Dining Areas.** Outdoor dining areas shall be designed so as to be architecturally compatible with existing structures on the subject property.
- F. **Hours of Operation.** Outdoor seating shall cease operation by 10:00 p.m. Sunday through Thursday and 11:00 p.m. on Friday and Saturday, unless otherwise approved by the Planning Commission as a Special Land Use.
- G. **Approval Process for Outdoor Seating Areas.**

Table 5.9.24.G. Approval Process for Outdoor Seating Areas					
Location		Process		Use or Other Regulations	
Within public ROW or on public property		Encroachment Permit		5.9.05.	
Private property	Front yard	Counter Review			
	Rooftop; or side or rear yard	Not located within 300' of a residential use			Director Review
		Located within 300' of a residential use			Special Land Use

- H. **Administrative Departure.** An Administrative Departure may be granted in lieu of a Special Land Use for outdoor seating areas dedicated for office or residential uses not available to the general public where in the opinion of the Director, the location would not adversely affect adjacent properties or substantially alter the character of the neighborhood.

Sec. 5.9.25. Overhead Walkways or Other Connections.

- A. Connections between structures that pass over a public street shall be approved by the City Commission, after a recommendation from the Planning Commission.
- B. In evaluating a request for a connection, the Planning Commission and City Commission shall evaluate the relationship of the proposed connection to the street, its effect on street level activities and views, and the following requirements.

1. Clear Glass. The use of clear glass on the sides of an overhead connection is required and the use of darkened glass is prohibited. The requirements of Section 5.2.14. Building Transparency shall apply.
2. Exterior Requirements. The exterior of all overhead connections shall be level. Any sloping or ramped surface between levels shall be accommodated within the bridge structure itself. The exterior height of an overhead connection is limited to that which is height reasonably necessary to provide one (1) level plus any needed slope. No multi-level connections are permitted.
3. Clear Span. Overhead connections shall be designed and constructed to provide a clear span across streets, sidewalks and other public rights-of-way.
4. Minimum Clearance. There shall be a minimum clearance of sixteen (16) feet below any overhead walkway or connection above a public street or fire lane.

Sec. 5.9.26. Parking Structures.

- A. Design Requirements. All design requirements of Table 5.6.08.A. Building Elements shall apply.
- B. Ground Level Active Use.
 1. An active use is required at the ground level of the parking facility where the lot abuts a public street. Space for the active use shall occupy a minimum width of seventy-five (75) percent of the structure frontage on at least one (1) primary public street. The Director shall determine the street to which this provision shall apply.
 2. For parking structures occupying a corner lot, the required active space on the primary public street shall occupy at least one (1) corner. Active uses shall also turn the corner and occupy at least an additional twenty-five (25) percent of the structure façade along the additional public street frontage.
 3. Space for the active uses shall have a minimum depth of thirty (30) feet. Active use areas shall not be used for storage or utility/service space.

Sec. 5.9.27. Recycling Collection Stations.

- A. Materials. Materials collected at recycling collection points shall be limited to aluminum, copper, plastic, glass, paper materials, and batteries.
- B. Maintenance. Recycling collection points shall be well maintained and orderly in appearance, such as bins with uniform color, size and shape. The areas immediately surrounding recycling sites shall be kept clean, in good repair and free of materials, rubbish or debris. The exterior of outside collection containers shall remain free of graffiti, chipped or peeling paint, or other signs of abandonment or neglect.
- C. Containers. Collection containers shall be at least twenty (20) feet from any lot line adjacent to a residential use or Residential Zone District.
- D. Outside Storage. If stored outside, recyclable materials shall be within weather-tight containers no higher than eight (8) feet.

- E. Screening. Collection containers and recycling locations shall be screened from external view and may include solid fencing, a vegetative screen or combination thereof, as approved by the Director.
- F. Processing Equipment. Processing equipment, including crushers and sorting equipment shall not be part of an outside collection operation.
- G. Parking. A minimum of five (5) parking spaces per recycling collection point or one (1) parking space for each receptacle, whichever is greater, shall be required.

Sec. 5.9.28. Regulated Uses.

A. Purpose.

1. In the development and execution of this Section, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several uses are concentrated under certain circumstances or when one (1) or more are near a Residential Zone District, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses as itemized in this Article is necessary to ensure that these adverse effects shall not contribute to the blighting or downgrading of the surrounding neighborhood. These controls are for the purpose of preventing a concentration of these uses within any one (1) area, or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimize activities, which are prohibited in other Chapters of the City Code.
2. In regulating sexually oriented businesses, it is the purpose of this Section to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the U.S. Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene material.
3. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports, and on findings incorporated in the following documents made available to the City Commission, the City Commission finds that sexually oriented businesses as a category of establishments are correlated with harmful secondary effects, and that the reports documented below are reasonably believed to be relevant to the problems that Grand Rapids is seeking to abate and prevent in the future.
 - a. Case Law: *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *Thomas v. Chicago Park District*, 122 S. Ct. 775 (2002), *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *East Brooks Books, Inc. v. City of Memphis*, 48 F.3d 220 (6th Cir. 1995); *Broadway Books v. Roberts*, 642 F.Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F.Supp. 378 (E.D. Ky.

1993); *Richland Bookmart v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Déjà vu v. Metro Government*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); *Bamon Corp. v. City of Dayton*, 7923 F.2d 470 (6th Cir. 1991); *Threesome Entertainment v. Strittmather*, 4 F.Supp.2d 710 (N.D. Ohio 1998); *J.L. Spoons, Inc. v. City of Brunswick*, 49 F.Supp.2d 1032 (N.D. Ohio 1999); *Triplett Grille, Inc. v. City of Akron*, 40 F.3d 129 (6th Cir. 1994); *Nightclubs, Inc. v. City of Paducah*, 202 F.3d 884 (6th Cir. 2000); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Déjà vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 2001 U.S. App. LEXIS 26007 (6th Cir. Dec. 6, 2001); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *Connection Distrib. Co. v. Reno*, 154 F.3d 281 (6th Cir. 1998); *Sundance Assocs. v. Reno*, 139 F.3d 804 (10th Cir. 1998); *American Library Association v. Reno*, 33 F.3d 78 (D.C. Cir. 1994); *American Target Advertising, Inc. v. Giani*, 199 F.3d 1241 (10th Cir. 2000); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 2002 U.S. Dist. LEXIS 1896 (D. Md., Feb. 6, 2002); *Currence v. Cincinnati*, 2002 U.S. App. LEXIS 1258 (6th Cir., Jan. 24, 2002); and other cases;

- b. Testimony and Reports. Testimony to Congress in 136 Cong. Rec. S 8987; 135 Cong. Rec. S. 14519; 135 Cong. Rec. S 5636; 134 Cong. Rec. E 3750; and reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona - 1979; Minneapolis, Minnesota-1980; Houston, Texas - 1997; Amarillo, Texas; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Austin, Texas - 1986; Seattle, Washington - 1989; Oklahoma City, Oklahoma - 1986; Cleveland, Ohio - and Dallas, Texas - 1997; St. Croix County, Wisconsin - 1993; Bellevue, Washington, - 1998; Newport News, Virginia - 1996; New York Times Square study - 1994; Phoenix, Arizona - 1995-98; and also on findings from the paper entitled "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota, and from "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000, and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the City Commission finds that sexually oriented businesses as a category of establishments are correlated with harmful secondary effects, and that the foregoing reports are reasonably believed to be relevant to the problems that Grand Rapids is seeking to abate and prevent in the future.

B. Uses Subject to Control. Uses subject to these controls are as follows:

1. Adult book stores, adult novelty stores, or adult video stores;
2. Adult cabarets;
3. Adult motion picture theaters;
4. Nude or semi-nude model studios; and
5. Sexually oriented businesses.

C. Definitions. Certain terms as used in this Section are defined under Regulated Uses in Section 5.16.02, R.

D. Permitted Uses. The Regulated Uses listed in Section 5.9.28.B. are permitted if:

1. The use is within a Zone District where the use is specifically permitted;
2. The use is more than five hundred (500) feet from any Residential Zone District, measured to the nearest lot line of the proposed use; and
3. The use is not within one thousand (1,000) feet of one (1) other Regulated Use, measured from the nearest lot line to the nearest lot line on a straight-line basis.

E. Variance for Proximity to Residential or Other Regulated Use.

1. If the proposed use is within five hundred (500) feet of a Residential Zone District, or within one thousand (1,000) feet of any other Regulated Use, the Board of Zoning Appeals may grant a variance for the distance restricts pursuant to the standards provided in Section 5.13.04.B. and pursuant to the procedures in 2., below.
2. A public hearing held in accordance with the requirements of the Zoning Act, except that notice shall be served on all owners and occupants of all property within five hundred (500) feet of the proposed use at least thirty (30) days prior to the Board of Zoning Appeals hearing on the matter.
3. Limit on Reapplication. No application which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said denial, except on the grounds of new evidence found valid by the Board of Zoning Appeals.

F. Expansion and Discontinuance of Use.

1. Establishments where uses are subject to the distance requirements of this Section shall not be expanded in any manner without first applying for and receiving a variance from the Board of Zoning Appeals as provided in E., above. Further, if a use subject to the distance requirements of this Section is discontinued for more than thirty (30) days, the use may not be reestablished without applying for and receiving the approval of the Board of Zoning Appeals as provided in E., above.
2. Nothing in this Section shall prevent the reconstruction, repairing, or rebuilding and continued use of any building or structure the uses of which make it subject to the controls of this Section which is damaged by fire, collapse, explosion or act of God.

Sec. 5.9.29. Residential Rehabilitation Facilities.

Any residential rehabilitation facility having with thirteen (13) to twenty (20) adults shall be at least one thousand five hundred (1,500) feet from any other residential rehabilitation facility, transitional or emergency shelter, single room occupancy dwelling, or small or large adult foster care facility. The facility shall comply with all State of Michigan requirements, as applicable.

Sec. 5.9.30. Rooming and Boarding Houses.

A. There shall be not more than four (4) rooms occupied by tenants, provided that the Planning Commission may permit additional rooms on lots exceeding ten thousand (10,000) square feet as determined by the Planning Commission considering the following conditions.

1. Parking meeting the requirements of Article 10 and parking lot landscaping meeting the requirements of Sections 5.11.11 and 5.11.12 shall be provided.
 2. The Planning Commission shall consider the presence of other similar uses in the immediate vicinity to determine if permitting additional rooms would have the effect of adversely affecting the character of the area.
- B. Occupancy by tenants shall generally be for expected durations longer than one (1) week.
- C. Independent Cooking. Individual rooms shall not contain independent cooking facilities. This requirement shall not prohibit the serving of meals to tenants or the use of a single kitchen by tenants.
- D. No more than one (1) individual shall occupy a room.
- E. Owner Occupied. Rooming and boarding houses shall be owner occupied and serve as the principal residence of the owner.

Sec. 5.9.31. Self-Storage Facilities.

- A. Minimum site area shall be a minimum of three (3) acres.
- B. The facility shall front on and have direct ingress and egress from a Regional or Major Street, or through a shared access drive off that street.
- C. All buildings shall be set back at least twenty-five (25) feet from any lot line.
- D. Landscape Requirements. The front yard shall be covered with grass or other ground cover or plant material, and with hedges and trees planted in a manner that effectively screens the facility from public view. In addition, any yard which is adjacent to a Residential Zone District shall have a landscape buffer per Section 5.11.12., provided the buffer is at least twenty (20) feet wide.
- E. The perimeter of the entire site shall be secured by a six (6) foot ornamental fence or solid wall.
- F. No storage of combustible or flammable liquids or fibers, or explosive or toxic materials shall be permitted.
- G. Outdoor Storage of Vehicles. Outdoor storage of motor vehicles, recreational vehicles, trailers, campers, boats, and other items of value shall be separately approved as a Special Land Use.
- H. One (1) dwelling unit for on-site manager may be provided.
- I. There shall be no commercial enterprise or activity on the premises, other than the self-storage units and a related rental office.
- J. TN-CC and TN-TCC Zone Districts.
1. All self-storage activities shall be contained within a single building and conducted exclusively indoors. Individual storage units may be accessed from inside the building only.

2. The lot area and setback regulations of Article 6 and landscaping regulation of Article 11 shall apply.
3. The requirement for a location on a Regional or Major Street may be waived by the Planning Commission if the facility will occupy an existing building and is otherwise found to be an appropriate location meeting the Special Land Use review standards.

Sec. 5.9.32. Single Room Occupancy (SRO).

- A. Separation Requirement. Any SRO having more than ten (10) units shall be at least one thousand five hundred (1,500) feet from any other SRO, residential rehabilitation facility, transitional or emergency shelter, or small or large adult foster care facility.
- B. Continuous Tenancy. At least ninety (90) percent of the SRO units shall be occupied by the same tenants for a continuous period of at least thirty-two (32) days.
- C. Size Limitation. An SRO unit shall be limited to one (1) habitable room of three hundred (300) square feet or less, exclusive of up to seventy (70) square feet of floor area devoted to kitchen use.

Sec. 5.9.33. Social or Service Clubs; Motorcycle Clubs.

- A. Office Space. Up to twenty-five (25) percent the gross floor area of the building or two-thousand (2,000) square feet, whichever is greater, may be used for office space.
- B. Management of Club. The affairs and management of such social or service club shall be conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting.
- C. Alcoholic Beverages. The sale or consumption of beer, wine or other alcoholic beverages to members and their guests must comply with Section 5.9.05. This activity shall be secondary and incidental to the promotion of some other objective of the organization, and further provided that the sale of alcoholic beverages shall comply with all applicable federal, state and municipal laws, rules, regulations, orders, permits and licenses.
- D. Motorcycle Club Review Standards. These review standards shall be used by the Planning Commission in its consideration of request for a motorcycle club, which by its nature, may adversely affect surrounding property owners if improperly located. The applicant shall also provide a written statement that responds to the following:
 1. Given the character, location, development trends and other aspects of the neighborhood in which the proposed club is requested, it is demonstrated that the neighborhood is underserved by such a use and that the addition or change in use will demonstrably be an asset to the neighborhood.
 2. The use or change in use as constructed and operated by the applicant is compatible with the neighborhood in which it will be located.
 3. Adjacent or nearby parks (e.g., public parks or recreation centers), playgrounds (e.g., public or private), religious institutions, or schools will not be adversely affected.
 4. The use or change in use will not have any, or minimal, negative secondary effects on the neighborhood. Negative secondary effects can include the following impacts:

5. Vehicular and pedestrian traffic, particularly during late night or early morning hours that might disturb area residents.
6. Noise, odors, or lights that emanate beyond the site's boundaries onto property in the area on which there are residential dwellings.
7. Excessive numbers of persons gathering outside the establishment.
8. Peak hours of use that add to congestion or other negative effects in the neighborhood.
9. Fighting, brawling, outside urination or other behavior that can accompany intoxication.

Sec. 5.9.34. Social Service Facilities.

Office Uses. In Residential Zone Districts, up to twenty-five (25) percent of the gross floor area of the building or two-thousand (2,000) square feet, whichever is greater, may be used for office space.

Sec. 5.9.35. Temporary Structures and Uses.

A. Purpose, Applicability, Applications, Permits.

1. This Section allows for the establishment of certain temporary uses or special events of limited duration, provided that the uses comply with the requirements of this Section and are discontinued upon the expiration of an approved time period. Any extension of the time period shall only be granted upon a finding that the need for the extension is due to circumstances beyond the immediate control of the applicant and applied for in writing prior to the expiration of the temporary use permit
2. Application. The Director may issue a permit for temporary structures and uses based upon receipt of a permit fee as applicable and a complete application, including:
 - a. A site plan, showing building locations, use areas, assigned parking areas and other relevant information;
 - b. A written statement demonstrating compliance with the requirements of this Section;
 - c. Written permission of the owner(s) for the activity on that property; and
 - d. Any materials required by this Section for specific uses, structures, activities, and events.
3. Permits.
 - a. Encroachment Permit. Any structures or activities planning to use of public rights-of-way shall require an encroachment permit from the City's Engineering Department.
 - b. The temporary structures and uses permit shall be in addition to other licenses, permits or approvals otherwise required by any governmental entity.
 - c. A building permit shall be required where the temporary use includes a tent exceeding two hundred (200) square feet.
 - d. Permit and inspection fees shall be set by resolution of the City Commission.

4. Conditions of Approval. The Director may attach conditions to the permit that would minimize disturbance to and compatibility with the area and surrounding land uses, and/or protect the public health, safety and welfare.
5. Performance Guarantee. The Director may require a performance guarantee meeting the requirements of Section 5.14.04 to insure compliance with this Chapter and all other applicable City ordinances, standards, rules and regulations.
6. Table 5.9.35.A shall also be used to govern the requirements for temporary structures and uses.

Structure or Use	Section	Duration	Permit Required
Construction-related temporary structures	5.9.35.C.	1 year	Building and Temporary Use Permits
Temporary housing	5.9.35.D.	3 months	Building and Temporary Use Permits
Temporary storage in a portable commercial shipping container	5.9.35.E.	30 days per calendar year	None
Temporary portable residential storage containers		30 days, 3 times in 12 months	None
Temporary structures (as part of an institutional use)	5.9.35.F.	2 years	Building and Temporary Use Permit
Grand openings, parking lot sales, sidewalk sales and clearance sales	5.9.35.G.	14 days, 2 times in 12 months	Temporary Use Permit
Assembly and fundraising activities	5.9.35.H.	4 days, 4 times in 12 months	Temporary Use Permit
Outdoor seasonal sales	5.9.35.I.	45 days, 2 times in 12 months	Temporary Use Permit
Farmer’s markets		See 5.9.35.I.2.	
Concession sales	5.9.35.J.	200 consecutive days in 12 months	Temporary Use Permit / Special Land Use
Temporary surface parking lots	5.9.35.K.	2 years	Temporary Use Permit
Garage sales	5.9.35.L.	3 days, 2 times in 12 months	None

B. General Requirements.

1. Public Rights-of-Way or Property. Temporary uses, structures or special events that occur in the public right-of-way or other public land shall be governed by applicable City policies.
2. Private Property. Temporary uses, structures or special events on private property shall:
 - a. Not conflict with the activities related to the principal uses taking place on the site;
 - b. Not be detrimental to property or improvements in the surrounding area;

- c. Not have substantial adverse effects or noise effects on nearby residential neighborhoods or to the public health, safety, or general welfare;
 - d. Not include permanent alterations to a structure or the site;
 - e. Comply with any applicable conditions of any prior zoning approvals that apply to a site or use on the site;
 - f. Not interfere with the normal operations of any permanent use on the property;
 - g. Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the parking and traffic movement associated with the temporary use; and
 - h. Except as provided in Section 5.9.35.J., not permit transient merchant activities or temporary seasonal retail sales on a vacant lot.
3. Temporary structures, uses and special events shall not involve the construction or alteration of any permanent building or structure.
 4. Temporary Structures. All temporary structures including, but not limited to, greenhouses, trailers, mobile homes, etc., shall conform to the Zone District setback requirements, unless otherwise specified in the approval.
 5. Permitted signs are regulated by Article 15 Signs.
 6. Sanitary Facilities. Sanitary facilities, either portable or permanent, shall be made available to all employees, attendants and participants during hours of operation. If portable, they shall be maintained to minimize odors and to remain fully functional.
 7. Parking. The number of parking spaces required for the temporary use or building shall be determined by the Director. Required parking spaces for a permanent use or building on the proposed site shall be considered in the parking calculation. No required parking spaces may be occupied by any activity related to the temporary use.
 8. Clean Up and Restoration. All sites shall be completely cleaned of debris and temporary structures or equipment within five (5) days of the termination of the temporary use, including, but not limited to: trash receptacles, signs, stands, poles, electrical wiring or any other fixtures and appurtenances or equipment connected therewith. The applicant shall restore the site to its original condition or better, unless the area is intended for new construction within a reasonable time following the temporary event.

C. Construction-Related Temporary Structures.

1. The following temporary construction-related buildings and uses are permitted, subject to the following requirements.
 - a. Construction Trailer or Construction Yard. The construction trailer or construction yard shall be incidental and necessary to construction at the site. Any structures or area shall be removed within thirty (30) days after a Final Occupancy permit has been issued, regardless of any time remaining on the building permit.
 - b. Temporary Sale Office or Model Home. The temporary sales office or model home shall be incidental to and necessary for, and directly related to, the sale or rental of

real property in a new subdivision or housing project. The temporary office or model home shall be removed when fifty (50) percent of the lots or units have been sold or leased, regardless of any time remaining on the permit or extension of the permit.

2. Permits for the same location and for the same purpose may be renewed by the Director for one (1) successive period of up to twelve (12) calendar months beyond what is permitted in Table 5.9.35.A.

D. Temporary Housing.

1. Temporary housing, in the form of a manufactured house, may be placed upon a site previously occupied by a detached single-family or two-family dwelling for the purposes of housing the intended occupants of a new dwelling, subject to the following requirements:
2. Construction. The former dwelling has been destroyed or otherwise rendered uninhabitable for a minimum of thirty (30) days, and a dwelling has been approved by the City for either reconstruction or replacement.
3. Building and Housing Codes. The type and condition of the temporary housing is permitted under applicable building or housing code requirements.
4. Location. The temporary housing is located in the rear yard. An Administrative Departure may be permitted for other locations where there is no feasible location in the rear yard provided that adjacent properties are not adversely affected.
5. Extension Request. One (1) time extension for an additional three (3) months may be permitted if requested at least thirty (30) days prior to the expiration of the temporary use permit.

E. Temporary Storage. Temporary storage containers shall be permitted to serve an approved existing use, subject to the following requirements.

1. Portable Shipping Containers - Commercial.
 - a. Location. The container shall not be in the front yard, or within ten (10) feet of any lot line or structure on the lot or on an adjacent lot.
 - b. Access. The container shall not impede ingress, egress, or emergency access.
2. Temporary Portable Storage Container - Residential.
 - a. Size. The maximum allowable size is one-hundred fifty (150) square feet with an overall length not to exceed sixteen (16) feet.
 - b. Clear Vision. Clear vision areas shall be maintained at all times, and portable storage containers shall not obstruct the flow of pedestrian or vehicular traffic.
 - c. Location. Containers shall be placed on a concrete or asphalt surface no closer than ten (10) feet from the front lot line.
 - d. Condition. All containers in use on a lot shall be free from rust, peeling paint, and other visible forms of deterioration.

- e. Number. Up to two (2) containers may be on the same lot at the same time, provided the total maximum allowable sized is not exceeded.
- F. Temporary Structures - Institutional Use. The following requirements shall apply to temporary institutional structures, such as portable classrooms.
1. Principal Use. The City shall have approved the principal use.
 2. Location. The temporary structure shall:
 - a. Not be in the front yard;
 - b. Comply with side and rear yard requirements of the Zone District, but in no case be less than twenty-five (25) feet from the rear lot line abutting a residential use;
 - c. Be at least six (6) feet from any structure; and
 - d. Not be within any required off-street parking area or required landscaped area.
 3. Screening. Under-skirting for the structure shall be used and landscaping provided around the perimeter of the base where visible from other developed lots or public rights-of-way.
 4. Extensions. Extensions may be granted for up to two (2) additional one (1) year periods, upon approval of a written request submitted at least thirty (30) days prior to the expiration of the temporary use permit.
- G. Temporary Outdoor Sales and Services. Grand openings, parking lot sales, sidewalk sales, clearance sales, special events and holiday celebrations including the temporary outdoor sale of merchandise, goods, materials or services may occur in a Mixed-Use Commercial Zone District, subject to the following requirements.
1. Accessory Use. Outdoor temporary sales or services shall be an accessory to an allowed use on the same lot.
 2. Parking and Access. A designated off-street parking area adequate to serve the activity shall be provided where it does not interrupt or hamper the flow of traffic on public streets, impede access to the principal use, pedestrian movements, or emergency vehicle access.
 3. Area of Operation. The area of operation for all activities associated with outdoor temporary sales or service shall:
 - a. Not exceed eight hundred (800) square feet and no single dimension shall exceed forty (40) linear feet; and
 - b. Be located on an asphalt, concrete or equivalent surface.
 4. Prohibited Sales. Sales of merchandise or the provision of services unrelated to the principal use unless operated by, or in support of, or as a fundraiser for a nonprofit organization.
- H. Assembly and Fundraising Activities. Assembly activities (e.g., carnivals, fairs, rodeos, sport events, concerts, and shows) and fundraising activities (e.g. car washes, bake sales, auctions) that benefit a community service group or non-profit organization are permitted in

mixed-use commercial and Residential Zone Districts and on properties approved for an educational or institutional use, subject to the following requirements.

1. **Parking and Access.** A designated off-street parking area shall be provided adequate to serve the activity where it does not interrupt the flow of traffic on public streets; or impede access to the principal use, adjacent uses, pedestrian movements, or emergency vehicle access.
 2. **Hours of Operation.** In all Residential Zone Districts, hours of operation shall start no earlier than 8:00 a.m. and end no later than 8:00 p.m., except on Fridays and Saturdays the hours may extend to 10:00 p.m. Hours of operation in all other districts shall operate within the hours of 8:00 a.m. to 11:00 p.m. unless otherwise approved by the Director.
 3. **Setup/Takedown.** The duration of use provided in Table 5.9.35.A. shall include setup and takedown activities.
 4. **Fundraising Agreement.** Goods or services being sold by a commercial entity for a fundraising event shall submit evidence of an event agreement with the community service group or non-profit organization with the permit application.
- I. **Outdoor Seasonal Sales and Farmers' Markets.** The outdoor sale of agricultural products is permitted, subject to the following definitions and requirements:
1. **Seasonal Sales.**
 - a. Seasonal sales are permitted in mixed-use commercial Zone Districts, and in all other Zone Districts on lots approved for educational, government or institutional uses.
 - b. A minimum pedestrian walkway of at least five (5) feet in width along the front of the display/sales areas shall be maintained clear of obstructions.
 2. **Farmers' Markets.**
 - a. Farmers' markets are permitted in mixed-use commercial Zone Districts, and in all other Zone Districts on properties approved for educational, government or institutional uses.
 - b. **Duration.**
 - i. In Mixed-Use Commercial Zone Districts, the maximum duration of a farmers' market shall be nine (9) consecutive months.
 - ii. In all other Zone Districts, the maximum duration of the farmers' market shall be nine (9) total months in any twelve (12) month period.
 - iii. Activity is limited to three (3) days per week between 7:00 a.m. and 7:00 p.m. Expansion of the number of days or hours of operation may be approved as a Special Land Use.
 - c. Multiple vendors are permitted with items available for sale limited to products obtained primarily through farming or agricultural activities such as:
 - i. Farm produce (e.g. fruits, vegetables, grains, nuts, fresh flowers and bedding plants, trees and forest products, Christmas trees).

- ii. Fresh meat, eggs honey and dairy products.
 - iii. Foodstuffs produced by the vendor or a family member (e.g. cheese, baked goods, etc.)
 - iv. Hand-made craft items (e.g. jewelry, pottery, wearing apparel, fine arts, etc.) provided that the sales area not exceed twenty (20) percent of the farmers' market total sales area.
- d. A minimum pedestrian walkway of at least five (5) feet in width along the front of the display/sales areas shall be maintained clear of obstructions.
3. Food Preparation or Cooking. With the exception of the TN-CC Zone District, outdoor food preparation or cooking is prohibited within two hundred (200) feet of a residential use. Cooking apparatus shall be separated from areas of pedestrian movement, and smoke emissions shall not impair pedestrian or vehicular sight distances or serve as a distraction at street intersections.
4. Temporary Use Permit. Prior to the opening of a seasonal sales operation or a farmers' market, an application for a Temporary Use Permit shall be submitted for review. In addition to a completed application and application fee, the following materials are required:
- a. A site plan that includes the location and dimensions of the sales and parking areas; site dimensions and floor areas of any buildings or tents; and existing public improvements, such as fire hydrants, bus shelters, trees and tree grates and parking meters.
 - b. Photographs of the planned sales and parking areas.
 - c. Written rules of operation or management plan, including days and hours of operation, period of time to be in operation, and a list of products to be sold.

J. Concession Sales.

1. Purpose and Applicability.
- a. Temporary concession sales can provide employment and small business growth in the City while providing a broad range of food choices to the public. The provisions of this section are intended to provide a proper balance between these uses that allow brick-and-mortar restaurants to thrive while allowing for new food vending opportunities that can add vitality to vacant parking lots and underutilized sites.
 - b. These provisions shall apply to businesses engaged in the cooking, preparation, and distribution of food or beverage on properties outside of the public right-of-way.
 - c. This section does not apply to mobile vendors that move from place to place and are in the same general location for up to thirty (30) minutes at a time, or locations under the control of Chapter 46 Downtown Vending of the City Code.
 - d. Temporary concession sales, including those conducted outdoors, or in stands, trailers, wagons, or vehicles shall be permitted subject to the requirements of this Section.

2. Use and Permits.
 - a. Accessory Use. Temporary concession sales are allowed when conducted as an accessory use to the principal use and business on the lot.
 - b. Special Land Use. Concession sales may be approved in Mixed-Use Commercial Zone Districts as a principal use on a vacant lot or as part of an integrated complex with Special Land Use approval.
 - c. Temporary Use Permit. A temporary use permit shall be obtained by each concession sales vendor on a property. The vendor shall adhere to all regulations and requirements of this Section and any conditions imposed by the Director or Planning Commission, as applicable.
 - d. Other Approvals. In addition to satisfying the requirements of this section, evidence of approval from the Kent County Health Department shall be provided for all concession sales. A Transient Merchant License shall be obtained from the Office of the City Clerk, as applicable.

3. Required Site Information. A site plan shall be submitted with the permit application that includes the information noted below. The Director and/or Planning Commission may request additional information if deemed necessary. For Special Land Use applications, this site plan may substitute for that required by Section 5.12.09.
 - a. Location and dimensions of any stand, trailer, wagon or vehicle, and any other outdoor activity associated with concession sales;
 - b. Site dimensions of any existing buildings on the lot including building setbacks;
 - c. Existing public improvements, such as fire hydrants, bus shelters, trees and tree grates and parking meters;
 - d. Surface type of the lot (e.g. unimproved/paved);
 - e. A parking plan, including traffic circulation patterns;
 - f. Site lighting plan;
 - g. Signs with scaled elevation drawings;
 - h. Location of existing or planned trash receptacles;
 - i. Location of on-site water, generator, and/or electric utilities that will serve concession vendor(s);
 - j. Location of existing or planned sanitary facilities;
 - k. Business district map identifying existing restaurants within buildings and any other known concession sales locations within three hundred (300) feet; and
 - l. Photographs of the area to be used.

4. Required Concession Sales Facilities Information. A narrative with elevation drawings shall be submitted that describe/show:

- a. The nature of proposed concession sales, include food and/or beverage types;
 - b. Vehicle or structure type;
 - c. Duration that sales will occur on the site; and
 - d. Hours of operation.
5. Review Standards. The following considerations shall be used by the Planning Commission and the Director in the deliberation and approval of a concession sales request for the site and/or vendor(s) in addition to the review standards of Section 5.12.09.
- a. Will the use contribute to the vitality and experience of the business district?
 - b. Will the use support or detract from existing brick and mortar establishments?
 - c. Is there an appropriate separation distance between temporary and permanent uses so as to not impair the long-term viability of nearby businesses?
 - d. Will the use add variety to the types of food or beverage offerings in the district or compete with area businesses in close proximity?
 - e. Will the proposed stand, trailer, wagon or vehicle contribute to the general aesthetic of the business district and include high quality materials and finishes?
6. Outdoor Cooking. With the exception of the TN-CC Zone District, outdoor food preparation and cooking is prohibited within two hundred (200) feet of a residential use. The duration requirements of Section 5.9.22.H. shall also be met.
7. Placement. Concession sales shall meet the setback requirements of the Zone District and the customer window shall be accessed directly from the public sidewalk. The intent of the placement is to contribute to the walkability of the business district and generate pedestrian activity. An Administrative Departure may be granted where an alternate placement would achieve this intent.
8. Parking Area. The area occupied by accessory concession sales shall not exceed twenty (20) percent of any required parking area. Sufficient on-site or district parking shall be provided for each stand, trailer, wagon, or vehicle on a lot, in addition to any other required parking for retail business buildings on the same parcel.
9. Pedestrian Space. A minimum pedestrian clear space of five (5) feet is required along all public walkways, unless an Administrative Departure is granted in accordance with Section 5.10.08. Pedestrian Access and Circulation.
10. Public ROW and Clear Vision. Concession sales shall not be in the public right-of-way or on public property unless otherwise approved, and shall be outside of clear vision areas.
11. Sanitary Facilities. Sanitary facilities shall be provided if tables and chairs are present for the convenience of guests. An Administrative Departure from this requirement may be granted if documentation is provided for alternative arrangements.
12. Hours of Operation. Operating hours shall be no later than 10:00 p.m. Sunday through Thursday and 11:00 p.m. on Friday and Saturday, unless otherwise approved by the Planning Commission.

13. Co-Location. Where concession sales have been approved on a lot as a principal use, locating additional concession sales on the same lot is encouraged.
 14. Sound. No amplified outdoor music, sound, or noise shall be permitted. Planned locations for outdoor generators that provide power shall be identified. Use of generators may be prohibited if it is anticipated that they may create a nuisance to neighbors due to noise, exhaust or vibration.
 15. Revocation. Any approved stand, trailer, wagon, or vehicle on a property for the purposes of concession sales shall remain in continuous operation so long as the premises is occupied. If the business closes, ceases to operate, or fails to keep regular business hours, then the temporary use permit may be revoked by the Director, or by the Planning commission for Special Land Uses in accordance with the provision of Section 5.12.09.I. If the approval is revised, the stand, trailer, wagon or vehicle shall be immediately removed from the property.
- K. Temporary Surface Parking Lots. Temporary surface parking lots are permitted in any Mixed-Use Commercial District pending the construction of a development project, subject to the following requirements and conditions.
1. Zoning Approval. Evidence of a zoning approval under the provisions of this Chapter for a new development shall be submitted with the temporary use permit.
 2. Site Plan. A site plan shall be submitted that includes site dimensions, existing public improvements, and proposed site layout of the temporary parking lot. Except as noted in 3., below, interior parking lot landscape, pedestrian and bicycle parking requirements shall not be applicable to temporary surface parking lots.
 3. Screening. Minimum parking lot screening requirements of Section 5.11.11 shall apply if the parking lot will be used for longer than six (6) months, including any approved extension.
 4. Phasing Description. A description of the various phases of the development project with anticipated dates of completion shall be submitted as part of the request.
 5. Extension. The permitted duration of this use may be renewed for up to one (1) additional year, upon approval of a written request submitted to the Director at least thirty (30) days prior to the expiration of the temporary use permit.
 6. Removal. If the project for which the temporary parking lot fails to be initiated and substantially completed, the Director may require the immediate removal of the parking area. A performance guarantee shall be submitted following approval of the temporary parking lot in an amount sufficient to remove the parking area and restore the site.
- L. Garage Sales.
1. Garage sales are exempt from the permit requirements in this Section, provided that they meet the duration requirements of Table 5.9.35.A.
 2. Garages/basement/yard sales operating beyond the duration requirements of Table 5.9.35.A. are considered commercial uses.

3. Items offered for sale shall be limited to personal property not acquired for resale by the residents of the lot where the sale occurs.

Sec. 5.9.36. Transitional or Emergency Shelters.

A transitional or emergency shelter having more than twelve (12) adults shall be at least one thousand five hundred (1,500) feet from any other transitional or emergency shelter, residential rehabilitation facility, single room occupancy dwelling, or small or large adult foster care facility.

Sec. 5.9.37. Reserved.

Sec. 5.9.38. Vehicle Fuel Stations (without vehicle service or repair, may include a convenience store or other retail use).

- A. Location of Equipment and Structures. Fuel pumps, pump islands, detached canopies, compressed air connections, and similar equipment shall be set back at least fifteen (15) feet from a street right-of-way and twenty (20) feet from all lot lines adjacent to a residential use or Zone District.
- B. Landscape Buffer. When gasoline or fuel sales are adjacent to a residential use or Zone District, a landscape buffer between uses shall be provided as required in Section 5.11.12.
- C. Outdoor Displays. Outdoor displays of merchandise shall be directly adjacent to the front of the building and shall be limited to typical service station merchandise (e.g. road salt, vehicle fluids, beverages, and ice).
- D. Cash Register Viewing Window. The cash register shall be clearly visible from the street. The viewing window shall have a contiguous area of at least fifteen (15) square feet of clear glass and maintain an unobstructed view into the building.
- E. Single-Bay Car Wash. A single-bay car wash may be permitted as an accessory use, subject to the following development and design standards:
 1. The entrance to the car wash bay shall be sited so as not to be readily visible from an adjacent primary street, as determined by the Director.
 2. The car wash bay shall accommodate only one (1) vehicle at a time.
 3. The car wash bay shall be outside of all required setback and landscape areas.
 4. In addition to any other off-street parking requirements or stacking requirements of Section 5.10.03.F.8., the lot shall contain adequate space to allow a minimum of three (3) stacking spaces for car wash services and shall be located to prevent vehicles from stacking into or creating a hazard to traffic flow on the public street or create obstructions to pedestrian movements on sidewalks..
 5. Where a car wash is adjacent to a residential use or Zone District, the hours of operation shall be limited to 8:00 a.m. through 10:00 p.m.
- F. Fuel Pump Canopy. A canopy over the fuel pumps may be erected subject to the requirements of Section 5.2.18.
- G. See also Section 5.9.40 where vehicle repair or service is provided.

Sec. 5.9.39. Vehicle Sales/Leasing and Automobile Rental.

- A. The requirements of Section 5.9.40. Vehicle Service or Repair shall apply when these services are provided.
- B. Minimum Lot Size. The site shall be a minimum of one (1) acre when vehicles are displayed outdoors.
- C. Open Drive Aisles. Outdoor display and storage areas of vehicles shall maintain open drive aisles to allow free movement of vehicles.
- D. Parking. All vehicles waiting to be picked up by the vehicle driver shall be kept in approved parking spaces on site.
- E. Licensing. Vehicle licensing requirements of the State of Michigan shall be followed in the review and approval of vehicle sales requests.
- F. Flag or Pennant. One (1) flag or pennant may be displayed on each vehicle for sale or lease. The maximum size of each flag or pennant shall not exceed twelve (12) inches x eighteen (18) inches.
- G. State Licenses. Table 5.9.36 further clarifies the Use Tables 5.6.06.B. and 5.7.04.B. A “P” indicates a Permitted Use; an “S” indicates a Special Land Use; an “X” indicates the use is not allowed in that District.

Class	TN			TN, MCN, MON	MCN, MON	NOS	SD
	CC	TCC	TBA	TOD	C		IT
Class A (New)	X	X	X	X	P	X	X
Class B (Used)	X	X	X	X	S	X	X
Class C (Used Parts)	X	X	X	X	S	X	P
Class D (Broker Office Only)	P	P	P	P	P	P	P
Class D (Broker Auction Site)	X	X	X	X	X	X	P
Class E (Transport)	X	X	X	X	X	X	P
Class F (Scrap Processor)	X	X	X	X	X	X	S
Class G (Salvage)	X	S	X	X	X	X	S
Class R (Recycler)	X	S	X	X	X	X	S
Class W (Wholesaler)	X	S	X	X	X	X	P

Sec. 5.9.40. Vehicle Service or Repair.

- A. This Section applies to uses in the Mixed-Use Commercial Zone Districts. Repair and storage of vehicles in Residential Zone Districts shall be in accordance with the requirements of Section 5.2.12.

- B. This Section shall be used in conjunction with Section 5.9.38. Vehicle Fuel Stations where vehicle repair or service is provided.
- C. The site shall be a minimum of one (1) acre.
- D. Screening.
 - 1. Vehicle service bay openings shall be oriented away from any public street or Residential Zone District to minimize the view of the vehicle service area and to limit noise effects.
 - 2. An Administrative Departure from this requirement may be granted to permit berms, evergreen shrubs, evergreen trees, masonry walls, solid wooden fencing, or any combination of these to minimize the bay openings from view.
- E. Enclosed Activities.
 - 1. All repair and maintenance activities shall be performed entirely within an enclosed building or structure.
 - 2. Enclosed Equipment. Hydraulic hoists, pits, and all lubrications, greasing, automobile washing, or repairing equipment shall be enclosed within a building. When any building or portion of a building housing this equipment shares a lot line with a residential use or Zone District, the closest adjacent building wall shall consist of a solid wall with no openings other than those required by applicable building codes.
 - 3. Enclosed Storage. All vehicle parts, dismantled vehicles (non-salvage or wrecking), and similar materials, and all discarded materials such as tires, cans and drums shall be stored within an enclosed building during all hours.
- F. Storage of Vehicles.
 - 1. Approved Parking Spaces. All vehicles awaiting repair or pick up by the vehicle owner shall be kept in approved parking spaces on site.
 - 2. Only those damaged or wrecked vehicles awaiting repair shall be stored on site, provided that a maximum of two (2) used vehicles displayed for sale shall be permitted as an accessory use, subject to Director Review.
- G. A Vehicle Service or Repair Facility shall be registered and licensed as required under the Motor Vehicle Service and Repair Act, Act 300 of 1974, MCL 257.1302a, as amended.

Sec. 5.9.41. Wireless Communication Facilities.

- A. Purpose and Intent. The purpose of this Section is to establish guidelines for the siting of towers and antennas for wireless communication uses. The intent of this Section is to:
 - 1. Encourage the location of towers in non-residential areas and minimize the total number of towers throughout the city;
 - 2. Promote the joint use of new and existing tower sites to minimize adverse visual impact of towers and antennas through careful design, siting, landscaping, and camouflaging techniques; and

3. Enhance the ability of the providers of wireless communications services to provide their services to the community quickly, effectively, and efficiently.
- B. Definitions. Definitions used in this Section are under Wireless Communication Facilities in Section 5.16.02.W.
- C. Applicability.
1. This Section applies to all construction and expansion of Wireless Communication Facilities.
 2. Amateur Radio and Receive-Only Antennas. This Section shall not govern any tower, or the installation of any antenna, that is less than seventy (70) feet high, including building height, and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas.
- D. Principal or Accessory Use. Towers shall be installed on a conforming lot either as a principal use, or as an accessory use related to the principal use.
- E. Inventory of Existing Sites.
1. An applicant for a tower and/or an antenna shall provide an inventory of its existing towers, antennas, or sites approved for towers and antennas that are within the city, or outside of the city serving areas within the city. The inventory shall include latitudinal and longitudinal location coordinates and the coverage area of the proposed tower or antenna, whether within or near the City's jurisdiction, including specific information about the design and height of each tower.
 2. The City may share this information, provided that the City is not, by sharing that information, in any way representing or warranting that these sites are available or suitable for tower or antenna construction.
- F. Availability of Suitable Existing Towers or Other Structures. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence may consist of any of the following.
1. No existing towers or structures are within the geographic area required to meet the applicant's engineering and coverage requirements.
 2. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
 3. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
 4. The applicant's proposed antenna would cause electromagnetic interference with the antenna(s) on the existing towers or structures, or the antenna(s) on the existing towers or structures would cause interference with the applicant's proposed antenna.
 5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable, meaning when the costs exceed new tower development.

6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- G. Measurement. For purposes of measurement, tower and antenna setbacks and separation distances shall be applied to all facilities whether inside or outside the city's boundaries.
- H. Setbacks.
1. Towers shall be located so that there is a sufficient radius of land around the tower so that its collapse shall be contained on the property where located. Accessory buildings shall follow the minimum setback requirements of the Zone District.
 2. Antennas installed on building rooftops shall be setback from the edge of the roof at least one (1) foot for each foot of antenna height as measured from the top of the roof (or parapet, if one exists) to the highest point of the antenna.
- I. Separation.
1. Towers shall be set back at least three hundred (300) feet from any off-site residential structure.
 2. In Zone Districts other than SD-IT, towers over ninety (90) feet in height shall not be within one-quarter ($\frac{1}{4}$) of a mile of any existing tower that is over ninety (90) feet high. Tower separation shall be measured by following a straight line from the portion of the base of the proposed tower that is closest to the base of the pre-existing tower.
- J. Height. Where permitted, monopoles shall not be higher than one-hundred ninety-five (195) feet in SD-IT and C Zone Districts; and one-hundred fifty (150) feet in all other Zone Districts. Any tower and/or antenna placement adjacent to a Residential Zone District that requires lighting shall use a continuous red beacon at night.
- K. Location and Design.
1. Co-Location.
 - a. Towers shall be constructed to accommodate at least four (4) antenna platform levels. A statement by the applicant and/or a structural analysis sealed by an engineer affirming that the construction of the wireless communications facility will accommodate co-location of additional antennas for future users shall be provided.
 - b. Co-location terms, including rates for compatible providers shall be included in the application. Terms shall be consistent with the market for metropolitan Grand Rapids and applicants shall submit a signed statement agreeing to permit co-location consistent with those rates.
 - c. Two (2) equipment shelters shall be allowed per site. Multiple shelters integrated into one (1) shall be considered a single shelter. No single provider shall occupy more than two hundred fifty (250) square feet of interior floor space.
 2. Design.
 - a. Where visible from a public street, the design of equipment shelters and related structures including shall use colors, landscaping, materials screening, and textures that have the finish and appearance to blend into the character of the neighborhood

and surrounding buildings so as to make the antenna and related equipment as visually unobtrusive as possible.

- b. Visible cabling and wiring, antenna and supporting electrical and mechanical equipment, must be a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as practicable.
 - c. Stealth equipment is permitted to be used as a wireless communication tower for areas where special sensitivity to neighboring properties is necessary.
3. No advertising or business signs shall be allowed.
 4. Wireless communications facilities shall be located and designed to not obstruct or significantly diminish views of the Grand River from public streets and public property.
 5. Fencing and Landscaping.
 - a. Security fencing or a wall not less than six (6) feet nor more than eight (8) feet high shall enclose towers and related appurtenances.
 - b. Wireless communication facilities and equipment shall be placed on a site where existing vegetation is preserved to the maximum extent possible.
 - c. Landscaping consisting of evergreen vegetation with a minimum planted height of six (6) feet placed densely so as to form a screen, shall be placed completely around the wireless communications facility at ground level, except as required to access the facility. Where appropriate, existing landscaping can be used to satisfy this requirement. Landscaping shall be installed on the outside of any fencing.
 6. Administrative Departure. An Administrative Departure may be permitted for landscape requirements and/or require a different type of screen or wall depending upon the location.
- L. Approvals. Wireless communications facilities are permitted under varying conditions dependent upon their form and the Zone District in which they are to be located. The following approval procedures apply.
1. Director Review.
 - a. Installing an antenna on an existing structure other than a tower that already has existing antennas (such as a building, sign, light pole, water tower, or other free standing non-residential structure), provided the addition does not extend above the highest point of the building or structure by more than thirty (30) feet or fifty (50) percent of the height of the existing structure, whichever is less, (except single family detached dwellings and their accessory structures) in all Zone Districts.
 - b. Installing an antenna on an existing structure other than a tower that does not have existing antennas (such as a building, sign, light pole, water tower, or other free standing non-residential structure), provided the addition does not extend above the highest point of the existing structure by more than thirty (30) feet or fifty (50) percent of the height of the existing building or structure, whichever is less, (not including single family detached dwellings and their accessory structures) in all Zone Districts except SD-OS, LDR and MDR.

- c. Installing an antenna on an existing tower of any height, including the placement of additional buildings or other supporting equipment used in connection with that antenna, provided the additional height of the antenna adds no more than twenty (20) feet to the height of the existing tower.

2. Special Land Use.

- a. Any wireless communication facility not listed under Director Review and otherwise prohibited shall require a Special Land Use approval in accordance with the requirements of Section 5.12.09.
- b. In addition to the review consideration of Section 5.12.09., the Planning Commission shall consider the following factors in approving applications for towers and antennas and may attach conditions consistent with these factors.
 - i. Tower or antenna height;
 - ii. Proximity of the tower or antenna to residential structures and Residential Zone District boundaries;
 - iii. Nature of uses on adjacent and nearby properties;
 - iv. Surrounding topography;
 - v. Surrounding tree coverage and foliage;
 - vi. Tower or antenna design, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - vii. Proposed ingress and egress; and
 - viii. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures.

M. Building Permits.

1. Structures covered under this Section shall require a building permit prior to the erection, expansion, including an increase in height, or relocation. The application for a permit shall include construction drawings showing the proposed method of installation, including details of structural support, footing, foundation, guys, braces, anchors, and other information as required by the City's Building Official to ensure proper engineering practice.
2. A site plan and other illustration drawn to scale shall be provided showing the lot or parcel on which the structure is to be erected, all structures on site, all structures within two hundred (200) feet of the site, all structural elements, and all other relevant information.
3. The permit shall include twenty-four (24) hour emergency contact information and contact information for the entities with responsibility for the wireless communications facilities described in the application. Contact information for the tower owner, operator, and emergency contact shall be kept current and on file with the City at all times.

N. Federal and State Requirements. Towers and antennas shall meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal

Communications Commission (FCC) and any other federal or state agency with the authority to regulate towers and antennas. If those standards and regulations are changed, then the owners of the towers and antennas shall bring them into compliance within the time mandated by the controlling federal and state agency. Failure to bring towers and antennas into compliance shall constitute grounds for removal of the structure at the owner's expense.

O. Fees. Notwithstanding any other provision of this Chapter, the Director may require, as part of fees for building permit or Special Land Use application for telecommunication facilities, an amount sufficient to recover all of the City's costs in retaining consultants to verify statements made in conjunction with the permit application, to the extent that verification requires specific expertise. The amount of this fee shall be equal to the cost charged by the consultant.

P. Removal of Facilities.

1. Any tower or antenna that is not operated for a continuous period of one (1) year or more shall be considered to be abandoned, and the owner shall remove the same within ninety (90) days of receipt of notice of the determination. Failure to remove an abandoned tower or antenna after this time period shall be grounds to remove the tower or antenna at the owner's expense.

2. The owner of a facility shall provide a performance guarantee meeting the requirements of Section 5.14.04. adequate to secure the cost of removing an antenna, antenna array, or tower that has been abandoned. In the event of a transfer of ownership, the seller shall be responsible for notifying the buyer of this requirement and for notifying the City of the transfer.

3. Damaged or Destroyed Nonconforming Facilities.

a. Notwithstanding this Section, nonconforming wireless communications facilities that are damaged or destroyed by an Act of God may be rebuilt without having to first obtain approvals otherwise required by this Section, provided that any other permits applicable to construction or reconstruction must be obtained.

b. The type, height, and location of the wireless communications facility shall be the same as the original approved facility and constructed in accordance with currently applicable building codes.

c. Permits for construction shall be obtained within one hundred and eighty (180) days from the date the facility is damaged or destroyed, and reconstruction shall be started within six (6) months from the time of damage and shall be continued until completed.

d. If no permit for construction is obtained, or if an issued permit expires, the facility shall be deemed abandoned as specified in Section 5.9.38.P.

Q. Prohibited Facilities.

1. Lattice and guy wire towers in all Zone Districts.

2. Towers in the TN-CC, TN-TCC, TN-TBA, TOD, LDR, MDR, SD-OS, and SD-NOS Zone Districts.

Sec. 5.9.42. Zoo.

Review Standards. A zoo use in any Zone District shall be subject to the Special District - Institutional Campus Section 5.7.05.F. Review and Approval.